2020

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

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ENACTED THROUGH THE 2020 REGULAR SESSION
OF THE LEGISLATURE

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Title 81

(As Revised 2015)

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By the Editorial Staff of the Publisher

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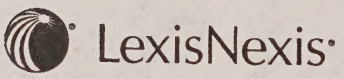

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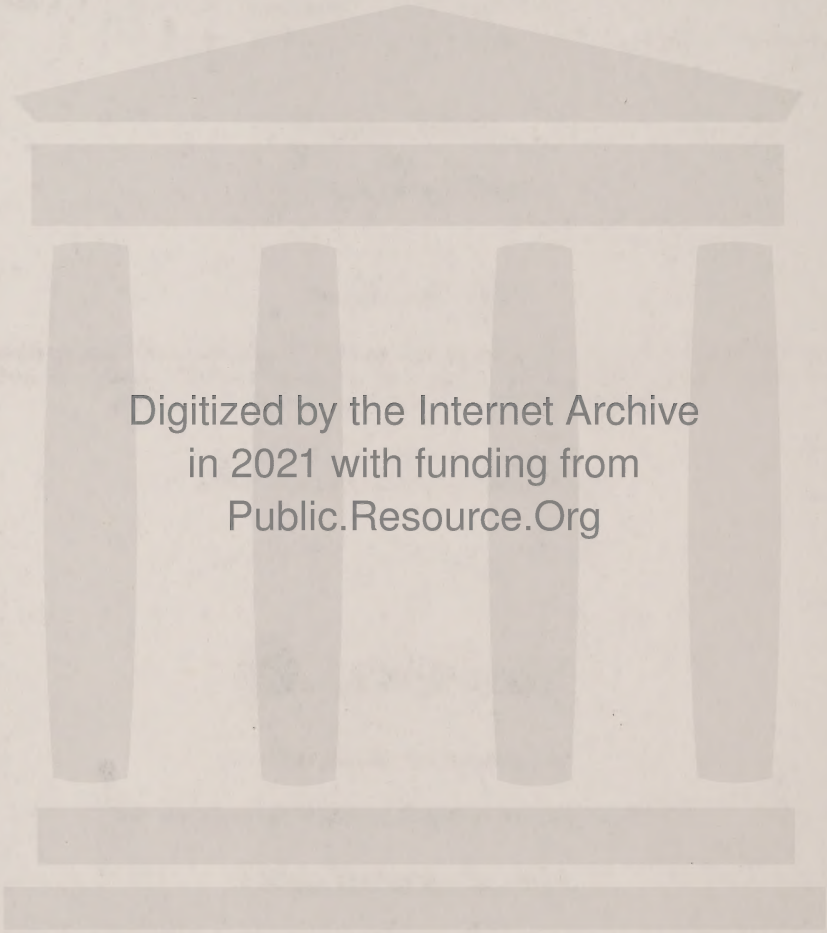
User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 81. Banks and Financial Institutions

CHAPTER 5. General Provisions Relating to Banks and Banking

GENERAL PROVISIONS

SEC.

81-5-64. Access to safe-deposit box upon death of sole lessee or last surviving co-lessee; definitions; order of priority; documentation required; rights and responsibilities of persons granted access; liability protections to financial institutions.

81-5-107. Financial institutions authorized to delay completion of financial transaction if certain financial institution employees have good faith belief that requested transaction may result in or be result of exploitation of vulnerable or elderly person.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME EIGHTEEN A

TITLE 81.
BANKS AND FINANCIAL INSTITUTIONS

Chapter 1.	Department of Banking and Consumer Finance.	81-1-1
Chapter 5.	General Provisions Relating to Banks and Banking.	81-5-1
Chapter 12.	Savings Associations Law.	81-12-1
Chapter 14.	Savings Bank Law.	81-14-1
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CHAPTER 1.
DEPARTMENT OF BANKING AND CONSUMER FINANCE

Sec.
81-1-81. Examination of banks [Subsection (2) repealed effective July 1, 2022].

§ 81-1-81. Examination of banks [Subsection (2) repealed effective July 1, 2022].

(1) It shall be the duty of the commissioner to apportion the work of examining banks among the examiners in such a way that each bank, under the provisions of law, shall be examined at least once during an eighteen-month period and more often, if necessary, in the discretion of the commissioner, at irregular intervals and without prior notice. However, neither the commissioner nor any examiner shall examine one (1) bank twice in succession unless the commissioner, for cause, so determines. In the event the commissioner's office, because of workload or other good sufficient cause, is unable to conduct an examination of a bank as provided for in this section, the commissioner is hereby authorized to accept the examination of any state bank performed by the Federal Deposit Insurance Corporation or the Federal Reserve Bank in lieu of the examination provided for in this section. However, in no case shall the commissioner be authorized to accept any such examination of any state bank performed by either the Federal Deposit Insurance

Corporation or the Federal Reserve Bank for any two (2) consecutive eighteen-month periods.

(2) The commissioner may join an examination and/or issue a joint report of examination with the Federal Reserve Bank of any bank holding company, including any foreign-owned bank holding company, with more than One Billion Dollars ($1,000,000,000.00) in assets that owns a Mississippi state-chartered bank. The commissioner shall not perform an examination independent of the Federal Reserve Bank. The commissioner may accept any examination report of a bank holding company performed solely by the Federal Reserve Bank in lieu of conducting a joint examination. Further, the commissioner may join in related supervisory orders issued by the Federal Reserve Bank. There shall be no cost to a bank or a bank holding company as a result of the commissioner's participation in a joint examination of a bank holding company as authorized by this subsection. The provisions of this subsection (2) shall stand repealed on July 1, 2022.

HISTORY: Laws, 1980, ch. 312, § 14; reenacted, Laws, 1982, ch. 303, § 14; Laws, 1990 Ex Sess, ch. 46, § 13; Laws, 1993, ch. 442, § 14; Laws, 1994, ch. 622, § 15; Laws, 1995, ch. 308, § 10; reenacted without change, Laws, 1997, ch. 497, § 14; reenacted without change, Laws, 2001, ch. 410, § 14; Laws, 2016, ch. 336, § 1, eff from and after passage (approved Apr. 5, 2016).

Amendment Notes — The 2016 amendment added (2).

CHAPTER 5.

GENERAL PROVISIONS RELATING TO BANKS AND BANKING

General Provisions. 81-5-1

GENERAL PROVISIONS

Sec.

81-5-1. General regulations.
81-5-34. Accounts of administrators, executors, guardians, trustees, and other fiduciaries.
81-5-55. Name of depositors not to be disclosed.
81-5-62. Accounts payable at death.
81-5-64. Access to safe-deposit box upon death of sole lessee or last surviving co-lessee; definitions; order of priority; documentation required; rights and responsibilities of persons granted access; liability protections to financial institutions.
81-5-85. Consolidation, conversion or merger of state or state and national banks, state or federal savings and loan associations and state-chartered banks, and state or federal savings banks and state-chartered banks.
§ 81-5-107. Financial institutions authorized to delay completion of financial transaction if certain financial institution employees have good faith belief that requested transaction may result in or be result of exploitation of vulnerable or elderly person.

§ 81-5-1. General regulations.

(1) All banking corporations are prohibited, either through their officers or as a banking agency, from participating, directly or indirectly, in the operation of any underwriting syndicate which handles securities for resale. However, this inhibition shall not apply to bonds issued by federal, state, county or other governmental agencies.

(2) The executive officers of banking corporations now existing or hereafter organized under the laws of the State of Mississippi are prohibited from owning stock in private banking houses or other agencies engaged in the business of underwriting securities for resale.

(3) The Commissioner of Banking and Consumer Finance is authorized, empowered and directed to promulgate rules and regulations, relative to withdrawals of deposits from savings banks, trust companies and other banking institutions, and the commissioner may, in cases of emergency, declare bank holidays and do any and all things necessary to insure, protect and conserve the resources of such banks.

(4) All state banking corporations are prohibited from making loans to state, county, municipal and district governmental agencies, unless such loans are made in strict compliance with legal enactments and regulations which govern, and such banking corporations are further prohibited from transferring funds from one state, county, municipal or district account to another unless authorized by warrant issued by proper authority, and such banking corporations are prohibited from discounting state, county, municipal, district or other public certificates and warrants, but such certificates and warrants may be used as collateral to guarantee the payment of notes or other obligations.

(5) The board of directors of any banking corporation created under the laws of this state may, at its option, require any or all employees of such to file with the board of directors a sworn financial statement semiannually or more often if it so desires.

(6) Any bank may, at its option, pay all checks drawn on it with currency or valid exchange drawn on a bank in a reserve city not more than five hundred (500) miles distant from such bank; but each depositor is entitled to have his checks paid each day in currency to the total extent of ten percent (10%) of his deposit if it exceeds One Thousand Dollars ($1,000.00) and at least One Hundred Dollars ($100.00) each day if his balance is over One Hundred Dollars ($100.00) and less than One Thousand Dollars ($1,000.00), and may demand his entire balance in currency at any time if One Hundred Dollars ($100.00) or less.

(7) All state banking corporations may purchase for the account of their customers bonds, stocks and other securities, and such banking corporations may charge for their service in connection with the handling of such transactions only actual expenses plus the usual broker's fees allowed for similar service by national banks.

(8) Any state bank may purchase, lease or otherwise acquire automatic data processing computers and related machinery and equipment, and such

bank may utilize and operate such computers, machinery and equipment in performing for itself, its customers or any other bank such services as may be desired, including, but not limited to, check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical or similar functions performed by and for a bank. Corporations may be organized under the laws of the State of Mississippi for the purpose of owning and operating, by purchase, lease or otherwise, such computers, related machinery and equipment as aforesaid, and such corporations may perform for any bank those services as above mentioned; and stock of such corporations shall be legal investments for state banks to the same extent that stock of bank service corporations is eligible for acquisition by national banks under the provisions of the Bank Service Corporation Act, Public Law 87-856, 76 Stat. 1132.

(9) In addition to other powers, a state-chartered bank shall have and possess such of the rights, powers, privileges, immunities, duties and obligations of a national bank having its principal place of business in this state as may be prescribed by the State Board of Banking Review by general regulation under the circumstances and conditions set out therein. In the event of a conflict between the provisions of this subsection (9) and the provisions of any other act or acts, directly or indirectly, governing or regulating the activities of state-chartered banks, the provisions of this subsection (9) shall control, and insurance activities of all banks, their subsidiaries, affiliates, branches, officers and employees doing business in this state shall be governed by the provisions of Title 83, Mississippi Code of 1972, only to the extent that Title 83, Mississippi Code of 1972, applies to national banks in Mississippi.

(10)(a) The purpose of this subsection (10) is to provide for parity among Mississippi chartered or domiciled banks extending open-end credit in this state, as well as to promote the retention of existing financial services within the state by encouraging Mississippi chartered or domiciled banks to continue their open-end credit operations in this state, rather than relocating those operations to other states with interest rates, fees and credit terms that may not be available under Mississippi law and exporting such interest rates, fees and credit terms back to Mississippi under the most favored lender doctrine of federal law.

(b) For the purpose of this subsection, "open-end credit account" means an arrangement between a creditor and a customer in which:

(i) The creditor permits the customer to obtain credit advances on a pre-authorized basis;

(ii) The creditor reasonably contemplates repeated transactions;

(iii) The creditor assesses interest on the outstanding unpaid balance of the customer's account; or

(iv) The amount of credit that may be extended to the customer, up to any limit set by the creditor, is made available to the extent that any unpaid balance is repaid.

(c) A Mississippi chartered or domiciled bank that seeks to use the provisions of this subsection shall set forth in the records of the bank the

rates and fees to be charged, the state where the rates and fees are permissible and the identity of one or more of the financial institutions.

(d) Notwithstanding any other provision of law to the contrary, Mississippi chartered or domiciled banks offering open-end credit may assess finance charges, credit service charges and fees and charges that are material to the determination of the interest rate in connection with open-end accounts at rates and amounts that are equal to or are less than the amounts that financial institutions domiciled in other states are permitted to impose and collect when extending credit to Mississippi customers as a result of the most favored lender doctrine of federal law.

(e) Notwithstanding any other provision of law to the contrary, for purposes of this subsection and Title 12, Sections 85, 1831d and 1730g of the United States Code, as applicable to the exportation of interest rates and any fees and charges that are material to their determination, any interest rates, finance charges, credit service charges and other fees and charges, in amount, as well as manner and method of computation, imposed by Mississippi chartered or domiciled banks under this subsection shall be authorized by Mississippi law.

(f) Notwithstanding any other provision of law to the contrary, any interest, finance charges, credit service charges or other fees or charges that are adopted from another state by a Mississippi chartered or domiciled bank, including those that are otherwise permissible in an amount under Mississippi law, may be assessed, accrued, earned or changed in the same manner or method as permitted under the law of the state from which they have been adopted, regardless of whether such manner or method is material to the determination of the interest rate under the law of that state.

(g) For purposes of this subsection, Mississippi chartered or domiciled banks may impose interest, finance charges, credit service charges or other fees and charges from one or more open-end credit accounts offered by financial institutions in other states in connection with a single open-end credit account.

HISTORY: Codes, 1942, § 5224; Laws, 1934, ch. 146; Laws, 1936, ch. 165; Laws, 1954, ch. 164; Laws, 1966, ch. 252, § 1; Laws, 1982, ch. 486; Laws, 1983, ch. 342, § 1; Laws, 1988, ch. 543, § 2; Laws, 1988, ch. 576; Laws, 1991, ch. 345, § 1; Laws, 1995, ch. 307, § 1; Laws, 1997, ch. 305, § 1; Laws, 2006, ch. 412, § 1, eff from and after July 1, 2006; Laws, 2018, ch. 354, § 2, eff from and after July 1, 2018; Laws, 2019, ch. 431, § 1, eff from and after passage (approved March 29, 2019).

Amendment Notes — The 2018 amendment added (9)(a) through (g).

The 2019 amendment, effective March 29, 2019, redesignated former (9)(a) through (g) as (10)(a) through (g); substituted "this subsection (10)" for "this subsection (9)" in (10)(a); inserted "in the records of the bank" in (10)(c); and made a minor punctuation change.

§ 81-5-15. Officers and employees of banks to furnish fidelity bond; insurance.

JUDICIAL DECISIONS

1. Dishonesty.

Financial institution bond's criteria for covering loan-related losses were consistent with this section in defining dishonesty as requiring intent to cause loss to the bank and requiring receipt of a financial benefit outside the employee's normal compensation; thus, absent evidence that a former employee who approved allegedly improper transactions received any financial benefit other than normal commissions or intended to share in loan proceeds, the bank could not recover on the bond. Renasant Bank v. St. Paul Mercury Ins. Co., 882 F.3d 203, 2018 U.S. App. LEXIS 2903 (5th Cir. Miss. 2018).

§ 81-5-34. Accounts of administrators, executors, guardians, trustees, and other fiduciaries.

Any bank, including a national bank, may accept accounts in the name of any administrator, executor, guardian, trustee or other fiduciary in trust for a named beneficiary or beneficiaries including the authority to exercise all rights and powers granted to a fiduciary under the Revised Uniform Fiduciary Access to Digital Assets Act created under Chapter 23, Title 91. Any such fiduciary shall have the power to make payments upon and to withdraw any such account, in whole or in part. The withdrawal value of any such account or other rights relating thereto may be paid or delivered, in whole or in part, to such fiduciary, without regard to any notice to the contrary, as long as such fiduciary is living. The payment or delivery to any such fiduciary or a receipt of acquittance signed by any such fiduciary to whom any such payment or any such delivery of rights is made shall be valid and sufficient release and discharge of any bank for the payment or delivery so made. Whenever a person holding an account in a fiduciary capacity dies, and no written notice of the revocation or termination of the trust relationship has been given to a bank and the bank has no notice of any other disposition of the trust estate, the withdrawal value of such account or other rights relating thereto may, at the option of a bank, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries of such trust. Whenever an account shall be opened by any person describing himself in opening such account as trustee for another, and there is no other or further notice of the existence and terms of a legal and valid trust, then such description shall be given in writing to such bank. In the event of the death of the person so described as trustee, the withdrawal value of such account or any part thereof may be paid to the person for whom the account was thus stated to have been opened, and such account and all additions thereto shall be the property of such person, unless prior to payment the trust agreement is presented to the bank showing a contrary interest. When made in accord with this section, the payment or delivery to any such beneficiary, beneficiaries or designated person, or a receipt or acquittance signed by any such beneficiary, beneficiaries or designated person for any such payment or delivery, shall be valid and sufficient release and discharge of a bank for the

payment or delivery so made. Trust accounts permitted by this section shall not be required to be acknowledged and recorded. When an account is opened in a form described in this section, the right set forth in Section 81-5-62 shall apply. No bank paying any beneficiary in accordance with the provisions of this section shall thereby be liable for any estate, inheritance or succession taxes which may be due this state. The term "accounts" or "account" as used in this section shall include, but not be limited to, any form of deposit or account, such as a savings account, checking account, time deposit, demand deposit or certificate of deposit, whether negotiable, nonnegotiable or otherwise.

HISTORY: Laws, 1984, ch. 326, § 1; Laws, 1988, ch. 484, § 1; Laws, 2017, ch. 419, § 20, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment added "including the authority to exercise...Chapter 23, Title 91" at the end of the first sentence.

§ 81-5-55. Name of depositors not to be disclosed.

(1) In no instance shall the name of any depositor, or the amount of his deposit, be disclosed to anyone, except to report to approved parties, such as credit bureaus, account verification services and others, the forcible closure of a deposit account due to misuse, such as fraud, kiting or chronic bad check writing or when required to be done in legal proceedings, for verification of public assistance in cases in which the Department of Human Services or the Division of Medicaid certifies that it has on file an effective written authorization from the depositor authorizing the disclosure of that information, for verification of the financial exploitation of a vulnerable person in cases in which the Attorney General submits a written authorization, or in case of insolvency of banks. The parties referred to in this section must be approved by the Commissioner of Banking and Consumer Finance and must satisfactorily demonstrate their reliability and credibility of their activities. Disclosure of depositor information to any affiliate or agent providing services on behalf of the bank shall not be considered disclosure of depositor information within the meaning of this section. The term "affiliate" means a corporation or business entity that controls, is controlled by or is under common control with the bank. The term "agent" means anyone who has an agreement, arrangement or understanding to transact business for the bank by the authority and on account of the bank, provided that the agreement binds the agent to the same degree of confidentiality of disclosure of bank records as the bank. Any violation of this provision shall be considered a misdemeanor and, upon conviction thereof, in any court of competent jurisdiction, the person shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or imprisoned in the county jail not more than six (6) months, or both, and in addition thereto, shall be liable upon his bond to any person damaged thereby.

(2) This section shall not be construed to prohibit the disclosure to the State Treasurer, State Auditor, Legislative Budget Office, Joint Legislative Committee on Performance Evaluation and Expenditure Review or the De-

partment of Finance and Administration, of any information about any type of account or investment, including certificates of deposit, owned by any public entity of the State of Mississippi.

(3) This section shall not be construed to prohibit, or to impose liability for, the disclosure of information to:

(a) The Department of Human Services, the Child Support Unit of the Department of Human Services, the Division of Medicaid, or their contractors or agents, pursuant to Chapter 13 or Chapter 19, Title 43, Mississippi Code of 1972; or

(b) The Department of Revenue pursuant to Chapter 13, Title 85.

HISTORY: Codes, 1942, § 5279; Laws, 1934, ch. 146; Laws, 1984, ch. 327; Laws, 1985, ch. 525, § 32; Laws, 1987, ch. 326, § 2; Laws, 1997, ch. 542, § 4; Laws, 1997, ch. 588, § 146; Laws, 2001, ch. 603, § 13, Laws 2012, ch. 434, § 2; Laws, 2017, ch. 407, § 9, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment designated the former first paragraph (1), the first sentence of the former second paragraph (2), and divided the second sentence of the former second paragraph into present (3) and (3)(a); deleted "In addition" from the beginning of (3); added (3)(b); and made minor stylistic changes.

§ 81-5-62. Accounts payable at death.

Accounts payable at death may be established under the following conditions:

(a) An account in a bank, including a national bank, may be opened by any person or persons with directions to make such an account payable on the death of the person or persons opening such an account to the named beneficiary or beneficiaries. When an account is so opened, the bank shall pay any monies to the credit of the account from time to time to, or pursuant to the order of, the person or persons opening such an account during his or their lifetime in the same manner as if the account were in the sole name or names of such person or persons. The term "accounts" or "account" as used in this section shall include, but not be limited to, any form of deposit or account, such as a savings account, checking account, time deposit, demand deposit or certificate of deposit, whether negotiable, nonnegotiable or otherwise.

(b) If the named beneficiary or one (1) of the beneficiaries so named is an individual beneficiary and the individual beneficiary or beneficiaries survive the death of the person opening such an account, and the individual beneficiary or all of the individual beneficiaries so named are sixteen (16) years of age or over at the death of the person opening such an account, the bank shall pay the monies to the credit of the account, less all setoffs and charges, to the named individual beneficiary or beneficiaries or upon his or their order, as hereinafter provided, and such payment by the bank shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries; provided, however, where such an account is opened or subsequently held by more than one (1) person, the death of one (1) of such

persons shall not terminate the account and the account shall continue as to the surviving person or persons and the named beneficiary or beneficiaries subject to the provisions of paragraphs (c) through (j) of this section. For purposes of this section, the term "individual beneficiary" shall refer to a living person who is the named beneficiary of a payable on death account.

(c) If the named individual beneficiary or all of the individual beneficiaries so named survive the death of the person or persons opening such an account and are under sixteen (16) years of age at such time, the bank shall pay the monies to the credit of the account, less all setoffs and charges:

(i) When or after the named individual beneficiary becomes sixteen (16) years of age, to the named beneficiary or upon his order; or

(ii) When more than one (1) individual beneficiary is named, the bank shall pay to each individual beneficiary so named his proportionate interest in such account as each severally becomes sixteen (16) years of age; or

(iii) To the legal guardian of the named individual beneficiary, wherever appointed and qualified, or where more than one (1) beneficiary is named, the bank shall pay such individual beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed and qualified; or

(iv) If no guardian is appointed and qualified, payment may be made in accordance with the provisions of Section 93-20-209 or 93-20-431 in situations to which such section or sections are applicable.

(d) Where the death of the person or persons opening such an account terminates the account under the provisions of paragraphs (b) and (c) of this section, and where one or more of the named individual beneficiaries are under sixteen (16) years of age and the remainder of the named individual beneficiaries are sixteen (16) years of age or over, the bank shall pay the monies, less all setoffs and charges, to:

(i) The named individual beneficiaries sixteen (16) years of age or over at the time of termination of such account pursuant to paragraph (b) of this section; and

(ii) The named individual beneficiaries under sixteen (16) years of age at the time of termination of such account pursuant to paragraph (c) of this section.

(e) If the named beneficiary or one (1) of the beneficiaries so named is a revocable trust, evidenced by a written trust agreement, which trust is still in existence at the death of the person opening such an account, the bank shall pay the monies to the credit of the account, less all setoffs and charges, to the trustee of the named revocable trust or upon his or their order, as hereinafter provided, upon being presented an affidavit by the trustee stating that the name of the trust, the names of the current trustees, and that the trust is still in existence at the time of presentment of the affidavit. Such payment by the bank shall be valid, notwithstanding any lack of actual authority by the trustee, and the bank shall be discharged and released to the same extent as if the bank had dealt with the personal representative of

the decedent. Such bank shall not be required to see to the proper application of the monies or evidence thereof or to inquire into the truth of any statement presented in the affidavit by the trustee.

(f) Where such account is opened or subsequently held by more than one (1) person, the bank, in the absence of any written instructions to the contrary which are consented to by the bank, shall accept payments made to such account and may pay any monies to the credit of such account from time to time to, or pursuant to the order of, either or any of such persons during their life or lives in the same manner as if the account were in the sole name of either or any of such persons.

(g) When a person or persons open an account in a bank in the form set forth in paragraph (a) of this section, and makes a payment or payments to such account or causes a payment or payments to be made to such account, it shall be conclusively presumed that such person or persons intend to vest in the named beneficiary or beneficiaries a present beneficial interest in such payment so made and in the monies to the credit of the account from time to time, to the end that, if the named beneficiary or beneficiaries survive the person or persons opening such an account, all the right and title of the person or persons opening such an account in and to the monies to the credit of the account at the death of such person or persons, less all setoffs and charges, shall, at such death, vest solely and indefeasibly in the named beneficiary or beneficiaries subject to the conditions and limitations of paragraphs (b) through (j) of this section.

(h) If the named individual beneficiary predeceases the person opening such an account, or if the named beneficiary is a revocable trust that is terminated, the present beneficial interest presumed to be vested in the named beneficiary pursuant to paragraph (g) of this section shall terminate at the death of the named individual beneficiary or upon the termination of the revocable trust named as a beneficiary. In such case, the personal representatives of the named individual beneficiary, the beneficiaries of the revocable trust, and all others claiming through or under the named beneficiary, shall have no right in or title to the monies to the credit of the account, and the bank shall pay such monies, less all setoffs and charges, to the person opening such an account or pursuant to his order in the same manner as if the account were in the sole name of the person opening such an account; provided, however, where such an account names more than one (1) beneficiary, the death of one (1) of the individual beneficiaries or the termination of a revocable trust beneficiary so named shall not terminate the account and the account shall continue as to the surviving beneficiary or beneficiaries subject to the provisions of paragraphs (b) through (j) of this section.

(i) A bank which makes any payment pursuant to paragraphs (b) through (h) of this section, prior to service upon the bank of an order of court restraining such payment, shall, to the extent of each payment so made, be released from all claims of the person or persons opening such an account, the named beneficiary or beneficiaries, their legal representatives, and all others claiming through or under them.

(j) When an account is opened in a form described in paragraph (a) of this section, the right of the named beneficiary or beneficiaries to be vested with sole and indefeasible title to the monies to the credit of the account on the death of the person or persons opening such an account shall not be denied, abridged or in anyway affected because such right has not been created by a writing executed in accordance with the law of this state prescribing the requirements to effect a valid testamentary disposition of property.

HISTORY: Laws, 1984, ch. 326, § 2; Laws, 1988, ch. 484, § 2; Laws, 2008, ch. 327, § 1, eff from and after July 1, 2008; Laws, 2019, ch. 463, § 5, eff from and after January 1, 2020.

Amendment Notes — The 2019 amendment, effective January 1, 2020, substituted "Section 93-20-209 or 93-20-431" for "Section 93-13-211 et seq." in (c)(iv).

§ 81-5-63. Deposit in name of two or more persons; payments to successors of deceased depositors without administration; "successor" defined.

JUDICIAL DECISIONS

ANALYSIS

3. Joint ownership of account.
6. —Survivorship rights.
9. Undue influence.

3. Joint ownership of account.

6. —Survivorship rights.

Daughter was a joint owner of the funds at issue when the conservatorship for her father was established, and the formal transfer of the funds from joint accounts to conservatorship accounts did not destroy her survivorship interest in those funds; during the father's life, the funds in the joint accounts were properly used to pay for his necessary care and living expenses, but the daughter retained her survivorship interest in the unused funds following his death. Jackson v. Touchstone (In re Addison), 242 So. 3d 926, 2018 Miss. App. LEXIS 15 (Miss. Ct. App. 2018).

9. Undue influence.

Reversion of certificates of deposit (CDs) to their status prior to amendments by the decedent's adult child through a durable power of attorney was appropriate because the decedent and the adult child maintained a confidential relationship, failed to rebut the presumption of undue influence, and abused the adult child's authority under the power of attorney by amending the parties to the CDs. Because the decedent retained an ownership interest in the CDs, neither the original conveyance, nor the subsequent transfers were inter vivos gifts. In re Estate of Johnson, 237 So. 3d 698, 2017 Miss. LEXIS 457 (Miss. 2017).

§ 81-5-64. Access to safe-deposit box upon death of sole lessee or last surviving co-lessee; definitions; order of priority; documentation required; rights and responsibilities of persons granted access; liability protections to financial institutions.

(1) **Definitions.** For purposes of this section, the following terms shall have the following meanings:

(a) "Financial institution" means any banking corporation, national bank, savings and loan association, credit union or postal savings bank operating in this state.

(b) "Safe-deposit box" means a storage container maintained in the vault area of a financial institution leased to a financial institution customer for the safekeeping of personal property that can be accessed with keys, pin numbers or some other security device.

(c) "Successor" means the decedent's spouse; or if there is no surviving spouse of the decedent, then any adult child of the decedent; or if there is no surviving spouse or adult child of the decedent, then either parent of the decedent; or, if there is no surviving spouse, adult child or parent of the decedent, then any adult sibling of the decedent.

(2) **Persons entitled to access in absence of probate or administration.** At any time after one hundred eighty (180) days from the death of a sole lessee or the last surviving co-lessee of a safe-deposit box, a financial institution shall grant access in the following order of priority to a safe-deposit box that was leased by the lessee at the time of the lessee's death:

(a) The personal representative named in the lessee's will if an estate has not been opened.

(b) A successor of the deceased safe-deposit box lessee, without necessity of administration, if an estate has not been opened.

(3) **Documentation required.** A person seeking access to the safe-deposit box must provide the financial institution with the following:

(a) Reasonable proof of the lessee's death;

(b) Reasonable proof of the identity of the person seeking access; and

(c) An affidavit meeting the requirements of subsection (5) of this section.

(4) **Inventory.** After presenting the financial institution with the items required by subsection (3) of this section, and within a reasonable time that allows the financial institution to comply, a person entitled to access to a safe-deposit box under subsection (2) of this section may exercise the following rights:

(a) The right to open the safe-deposit box in the presence of an employee of the financial institution along with one (1) other person who is either an officer of the financial institution or an attorney with an active bar license, after which an inventory of the contents of the safe-deposit box must be prepared by the person granted access and signed by:

(i) The person granted access to the safe-deposit box;

(ii) The employee; and

(iii) The third person who witnessed the inventory of the contents.

A copy of the inventory may be retained by the financial institution as a business record.

(b) The right to remove the contents of the safe-deposit box, subject to the requirements and limitations of this section.

(c) The right to cancel the lease for the safe-deposit box after all contents of the safe-deposit box have been removed.

(5) **Affidavit.** An affidavit required by subsection (3)(c) of this section must contain the following information:

(a) The name of the person leasing the safe-deposit box and the date of the lessee's death;

(b) The county in which the lessee was domiciled at the time of the lessee's death;

(c) A statement that no application or petition for the appointment of a personal representative has been granted or is pending in any jurisdiction;

(d) A statement that the value of the entire estate of the decedent, wherever located, excluding all liens and encumbrances thereon, does not exceed Fifty Thousand Dollars ($50,000.00); and

(e) A statement under penalty of perjury that the affiant is qualified under subsection (2)(a) or (2)(b) of this section to obtain access to the safe-deposit box leased by the individual and the facts establishing the qualification.

(6) **Responsibility of a person granted access.** A person to whom access to a safe-deposit box is provided under this section is answerable and accountable to the administrator or executor of the estate of the decedent if one is subsequently opened. However, a financial institution that provides access to a safe-deposit box under this section is discharged and released from liability and responsibility for the contents held in the safe-deposit box to the same extent as if the financial institution had dealt with the personal representative or executor of the decedent. The financial institution is not required to:

(a) Inquire into the truth of any statement in an affidavit presented under this section; or

(b) Participate in the disposition of the assets held in the safe-deposit box or ensure that such assets are properly handled or disposed of.

(7) **Prepayment of fees or cost.** If a person granted access under this section does not have a key to the safe-deposit box and a financial institution requires the services of a locksmith or other contractor to gain access to a safe-deposit box, the financial institution may charge the person granted access a lost-key, drilling or similar fee, or require the person granted access to pay any cost associated with the services of a locksmith or other contractor necessary to gain access to the safe-deposit box. The financial institution shall have a reasonable amount of time to have the safe-deposit box drilled after payment of the required fee to allow the person granted access to access the safe-deposit box.

(8) **Interim access.** (a) A person described in subsection (2) of this section shall be given access to a safe-deposit box before expiration of the required one-hundred-eighty-day period only to remove any will or burial instructions contained therein. The person must first meet all the requirements and conditions of subsection (4)(a) of this section concerning the persons required to be present and a full inventory of the contents of the safe-deposit box; but no other contents of the safe-deposit box may be removed until the one-hundred-eighty-day requirement of subsection (2) has been satisfied. The person given interim access to the safe-deposit box must immediately deliver all wills found and removed from the safe-deposit box to the clerk of the chancery court of the county in which the decedent was domiciled at the time of the decedent's death; failure to do so shall subject the person to criminal liability under Section 97-9-77.

(b) The financial institution may make a complete copy of any document removed and delivered under the terms of this subsection (8) and place that copy, together with a copy of the inventory and supporting documentation noted with the date of delivery, in the safe-deposit box to remain there pending removal of the contents of the box as provided by this section or other law.

(9) **Reliance on affidavit.** (a) A financial institution that acts in reliance upon an affidavit described in subsection (5) of this section without knowledge that the representations contained therein are incorrect is not liable to any person for so acting. A financial institution that does not have actual knowledge that the facts contained in the affidavit described in subsection (5) of this section are incorrect may assume without inquiry the existence of the facts contained in the affidavit.

(b) A financial institution shall not be held liable for any costs, expenses, damages or attorney's fees arising from a grant of access to, or delivery of, the contents held in a safe-deposit box when the access or delivery is under the provisions of this section.

(10) **Affidavit form.** A document substantially in the following form may be used as the affidavit prescribed in subsection (3)(c) and subsection (5) of this section.

SAFE-DEPOSIT BOX AFFIDAVIT

The undersigned, after having been first duly sworn, hereby state(s) that:

1. The undersigned makes this affidavit under penalty of perjury pursuant to Section 81-5-64, Mississippi Code of 1972;

2. _____ ("decedent") died on the ____ day of ____, 20 ____, and was domiciled in _____ County;

3. At least one hundred eighty (180) days have elapsed since the death of the decedent;

4. The value of the entire estate of the decedent, wherever located, excluding all liens and encumbrances thereon, does not exceed Fifty Thousand Dollars ($50,000.00);

5. No application or petition for the appointment of a personal representative of the estate has been granted or is pending in any jurisdiction;

6. At his/her death, decedent was the last surviving lessee/sole lessee of safe-deposit box number _____ located at _____.

7. The undersigned is qualified to obtain access to the safe-deposit box leased by the decedent as the successor as defined in Section 81-5-64, Mississippi Code of 1972: (Choose one)

a. The decedent's spouse;

b. Or if there is no surviving spouse of the decedent, then any adult child of the decedent;

c. Or if there is no surviving spouse or adult child of the decedent, then either parent of the decedent; or

d. If there is no surviving spouse, adult child or parent of the decedent, then any adult sibling of the decedent.

The undersigned hereby ask(s) the financial institution to allow access to the safe-deposit box of the decedent to allow for the cancellation of the rental contract and relinquishment of the contents contained therein.

SIGNATURE AND ACKNOWLEDGMENT

_____

Date:

_____

Printed Name:

_____

Address:

_____

Telephone Number:

_____

This document was acknowledged before me on

_____ (Date) by _____

(Name of Affiant).

Signature of Notary

_____ (Seal, if any.)

My commission expires: _____

HISTORY: Laws, 2018, ch. 423, § 1, eff from and after July 1, 2018.

§ 81-5-85. Consolidation, conversion or merger of state or state and national banks, state or federal savings and loan associations and state-chartered banks, and state or federal savings banks and state-chartered banks.

Any two (2) or more state-chartered banks, or any national bank and any state-chartered bank, or any state or federal savings and loan association and any state-chartered bank, or any state or federal savings bank and any state-chartered bank, may, with the approval of the commissioner, consolidate with or merge into one (1) state-chartered bank, under the charter of the

existing state bank, on such terms and conditions, as may be lawfully agreed upon, adopted and approved in a merger plan in accordance with Article 11, Chapter 4 of Title 79, Mississippi Code of 1972. Following receipt of the required corporate approvals and approval of the merger plan by the commissioner, the resulting amendments to charters of any state-chartered bank that is a party to the merger plan shall be approved and filed with other state officials in accordance with Section 81-3-15. The capital stock of such consolidated bank shall not be less than that required under the Mississippi banking laws for the organization of a bank in the place in which it is located. And all the rights, franchises and interests of the institutions so consolidated in and to every species of property, personal and mixed, and choses in action thereto belonging, shall be deemed to be transferred to and vested in such bank into which they are consolidated without any deed or other transfer, and the said consolidated bank shall hold and enjoy the same and all rights of property, franchises and interests in the same manner and to the same extent as were held and enjoyed by the institutions so consolidated therewith.

Any national bank, state or federal savings and loan association, or state or federal savings bank may apply for conversion into a state-chartered bank upon the affirmative vote of the shareholders owning at least two-thirds (2/3) of its capital stock outstanding, or of fifty-one percent (51%) or more of the total number of the members, at a meeting called by the directors, notice of which, specifying the purpose, shall be given the manner required by the bylaws, or in the absence of such bylaw, then by sending the notice to each shareholder of record by registered mail at least ten (10) days before the meeting. Upon such affirmative vote, the converting institution may apply for a certificate of authority by filing with the commissioner a certificate signed by its president and cashier which sets forth the corporate action herein prescribed and asserts that the institution has complied with the provisions of the laws of the United States. The converting institution shall also file with the commissioner the plan of conversion and the proposed amendments to its articles of incorporation as approved by the stockholders for the operation of the institution as a state bank. Upon receipt of the prescribed application, the commissioner shall examine all facts associated with the conversion. The expenses and cost incurred for such special examination shall be paid by the institution applying for permission to convert. The commissioner shall present his findings and recommendations to the State Board of Banking Review for consideration. Upon approval by the State Board of Banking Review, the commissioner shall issue a certificate of authority to the applicant allowing the conversion to proceed.

Any bank, savings and loan association or savings bank chartered by the State of Mississippi is hereby authorized to convert into, consolidate with, or merge with a national bank domiciled in the State of Mississippi, with the national bank charter surviving, without approval of the Department of Banking and Consumer Finance, the Commissioner of Banking and Consumer Finance, or any state authority whatsoever.

HISTORY: Codes, 1942, § 5214; Laws, 1934, ch. 146; Laws, 1978, ch. 316, § 1;

Laws, 1995, ch. 308, § 6; Laws, 1997, ch. 542, § 5, eff from and after passage (approved April 10, 1997); Laws, 2018, ch. 354, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in the first paragraph, substituted "adopted and approved in a merger plan in accordance with Article 11, Chapter 4 of Title 79, Mississippi Code of 1972" for "by a majority of the board of directors of each bank proposing to consolidate" in the first sentence and rewrote the second sentence, which read: "Such agreement shall be ratified and confirmed by the affirmative vote of the shareholders or members of each such institution owning at least two-thirds (2/3) of its capital stock outstanding, or of fifty-one percent (51%) or more of the total number of members, at a meeting to be held on call of the directors, notice of which specifying the purpose shall be given in the manner required by the bylaws, or in the absence of such bylaw then by sending such notice to each shareholder of record by registered mail at least ten (10) days prior to such meeting"; and in the second paragraph, substituted "notice of which, specifying the purpose, shall be given the manner required by the bylaws, or in the absence of such bylaw, then by sending the notice to each shareholder of record by registered mail at least ten (10) days before the meeting" for "subject to the manner previously described in this section."

§ 81-5-107. Financial institutions authorized to delay completion of financial transaction if certain financial institution employees have good faith belief that requested transaction may result in or be result of exploitation of vulnerable or elderly person.

(1) As used in this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

(a) "Eligible person" means a vulnerable person, or any person age sixty-five (65) years or older.

(b) "Exploitation" of an eligible person has the same meaning as set forth in Section 43-47-5.

(c) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association or credit union authorized to do business and accept deposits in this state under state or federal law.

(d) "Good faith" means honesty in fact.

(e) "Vulnerable person" has the same meaning as set forth in Section 43-47-5.

(2) If an officer of a financial institution or a branch manager, or their designee, believes in good faith that a requested transaction of any kind may result in, or be the result of, exploitation of an eligible person, the institution may delay the completion or execution of the transaction for a period of time not to exceed ten (10) calendar days, unless extended, as otherwise provided in this section.

(3) Any delay of a financial transaction as authorized by this section will expire upon either:

(a) A good-faith determination by the financial institution that the transaction will not result in, or is not the result of, exploitation of the eligible person; or

(b) Ten (10) calendar days, unless the Department of Human Services or a law enforcement authority requests that the financial institution extend the delay, in which case the delay shall be extended for an additional period of up to ten (10) business days unless otherwise extended or terminated by court order. The Department of Human Services, any law enforcement authority or any interested person may petition a court of competent jurisdiction to enter an order extending or terminating the delay of a transaction.

(4) If a transaction is delayed, the financial institution shall promptly notify the Department of Human Services, and at its option may notify any federal, state or local law enforcement authority, any other person who is authorized to have access to or transact business on any account of the eligible person with the financial institution, any person reasonably associated with the eligible person, or any other person permitted by state or federal laws or regulations or by customer agreement. The financial institution may disclose in connection with such notification information about the transaction, the reason for the delay, and any information that may be included in a report of abuse, neglect or exploitation as provided in Section 43-47-7.

(5) A financial institution and its officers, directors, employees, agents and representatives shall have no duty to act pursuant to this section. Nothing in this section shall change any contractual or other lawful right or authority a financial institution may have to refuse or delay a transaction.

(6) A financial institution and its officers, directors, employees, agents and representatives shall be immune from any administrative, civil, or criminal liability that might otherwise arise for taking action or not taking action pursuant to this section and for making any disclosure or delaying any transaction permitted by this section. The immunity provided for in this subsection shall not apply to any individual who is a perpetrator of exploitation of the eligible person.

HISTORY: Laws, 2020, ch. 415, § 1, eff from and after July 1, 2020.

CHAPTER 12.

SAVINGS ASSOCIATIONS LAW

Sec.
81-12-145. Accounts payable at death.

§ 81-12-145. Accounts payable at death.

Accounts payable at death may be established under the following conditions:

(a) An account in an association may be opened by any person or persons with directions to make such an account payable on the death of the person or persons opening such an account to the named beneficiary or beneficiaries. When an account is so opened, the association shall pay any

monies to the credit of the account from time to time to, or pursuant to the order of the person or persons opening such an account during his or their lifetime in the same manner as if the account were in the sole name or names of such person or persons.

(b) If the named beneficiary or one (1) of the beneficiaries so named survive the death of the person opening such an account and the beneficiary or all of the beneficiaries so named are sixteen (16) years of age or over at the death of the person opening such an account, the association shall pay the monies to the credit of the account, less all proper setoffs and charges, to the named beneficiary or beneficiaries or upon his or their order, as hereinafter provided, and such payment by the association shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries; provided, however, where such an account is opened or subsequently held by more than one (1) person, the death of one (1) of such persons shall not terminate the account and the account shall continue as to the surviving person or persons and the named beneficiary or beneficiaries subject to the provisions of subsections (c) through (i) of this section.

(c) If the named beneficiary or all of the beneficiaries so named survive the death of the person or persons opening such an account and are under sixteen (16) years of age at such time, the association shall pay the monies to the credit of the account, less all proper setoffs and charges:

(i) When or after the named beneficiary becomes sixteen (16) years of age, to the named beneficiary or upon his order; or

(ii) When more than one (1) beneficiary is named, the association shall pay to each beneficiary so named his proportionate interest in such account as each severally becomes sixteen (16) years of age; or

(iii) To the legal guardian of the named beneficiary, wherever appointed and qualified, or where more than one (1) beneficiary is named, the association shall pay such beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed and qualified; or

(iv) If no guardian is appointed and qualified, payment may be made in accordance with the provisions of Section 93-20-209 or 93-20-431 in situations to which such section or sections are applicable.

(d) Where the death of the person or persons opening such an account terminates the account under the provisions of paragraphs (b) and (c) of this section and where one or more of the named beneficiaries are under sixteen (16) years of age and the remainder of the named beneficiaries are sixteen (16) years of age or over, the association shall pay the monies to the credit of the trust, less all proper setoffs and charges, to:

(i) The named beneficiaries sixteen (16) years of age or over at the time of termination of said account pursuant to paragraph (b) of this section, and

(ii) The named beneficiaries under sixteen (16) years of age at the time of termination of said account pursuant to paragraph (c) of this section.

(e) Where such account is opened or subsequently held by more than one (1) person, the association, in the absence of any written instructions to the contrary, consented to by the association, shall accept payments made to such account and may pay any monies to the credit of such account from time to time to, or pursuant to the order of, either or any of said persons during their life or lives in the same manner as if the account were in the sole name of either or any of such persons.

(f) When a person or persons opens an account in an association, in the form set forth in paragraph (a) of this section, and makes a payment or payments to such account, or causes a payment or payments to be made to such account, such person or persons shall be conclusively presumed to intend to vest in the named beneficiary or beneficiaries a present beneficial interest in such payment so made, and in the monies to the credit of the account from time to time, to the end that, if the named beneficiary or beneficiaries survive the person or persons opening such an account, all the right and title of the person or persons opening such an account in and to the monies to the credit of the account at the death of such person or persons, less all proper setoffs and charges, shall, at such death, vest solely and indefeasibly in the named beneficiary or beneficiaries subject to the conditions and limitations of paragraphs (c) through (i) of this section.

(g) If the named beneficiary predeceases the person opening such an account, the present beneficial interest presumed to be vested in the named beneficiary pursuant to paragraph (f) of this section shall terminate at the death of the named beneficiary. In such case, the personal representatives of the named beneficiary, and all others claiming through or under the named beneficiary, shall have no right in or title to the monies to the credit of the account, and the association shall pay such monies, less all proper setoffs and charges, to the person opening such an account, or pursuant to his order, in the same manner as if the account were in the sole name of the person opening such an account; provided, however, where such an account names more than one (1) beneficiary, the death of one (1) of the beneficiaries so named shall not terminate the account and the account shall continue as to the surviving beneficiary or beneficiaries subject to the provisions of paragraphs (c) through (i) of this section.

(h) An association which makes any payment pursuant to paragraphs (c) through (g) of this section, prior to service upon the association or an order of court restraining such payment, shall, to the extent of each payment so made, be released from all claims of the person or persons opening such an account, the named beneficiary or beneficiaries, their legal representatives, and all others claiming through or under them.

(i) When an account is opened in a form described in paragraph (a) of this section, the right of the named beneficiary or beneficiaries to be vested with sole and indefeasible title to the monies to the credit of the account on the death of the person or persons opening such an account shall not be denied, abridged or in anywise affected because such right has not been created by a writing executed in accordance with the law of this state

prescribing the requirements to effect a valid testamentary disposition of property.

HISTORY: Laws, 1977, ch. 445, § 40; reenacted, Laws, 1982, ch. 301, § 73; Laws, 1990 Ex Sess, ch. 52, § 74; Laws, 1993, ch. 441, § 74; Laws, 1994, ch. 622, § 106; reenacted without change, Laws, 1997, ch. 496, § 71; reenacted without change, Laws, 2001, ch. 488, § 73, eff from and after July 1, 2001; Laws, 2019, ch. 463, § 6, eff from and after January 1, 2020.

Amendment Notes — The 2019 amendment, effective January 1, 2020, in (c)(iv), substituted "If no guardian" for "In the event no guardian" and "Section 93-20-209 or 93-20-431" for "Section 93-13-211 et seq."; and substituted "paragraph" and "paragraphs" for "subsection" and "subsections" in (d) and (f) through (i).

CHAPTER 14.

SAVINGS BANK LAW

Article 8. Operations. 81-14-351
Article 9. Holding Companies. 81-14-401

ARTICLE 8.

OPERATIONS.

§ 81-14-363. Accounts payable at death.

(1) An account in a savings bank may be opened by any person or persons with directions to make such account payable upon his or their death to the named beneficiary or beneficiaries. When an account is so opened, the savings bank shall pay any money to the person or persons opening such account during his or their lifetime in the same manner as if the account were in the sole name or names of such person or persons.

(2) If the named beneficiary or one (1) of the named beneficiaries survive the death of the person opening such an account and the beneficiary or all of the beneficiaries so named are sixteen (16) years of age or over at the death of such person, the savings bank shall pay the money to the credit of the account, less all proper setoffs and charges, to the named beneficiary or beneficiaries or upon his or their order, as hereinafter provided. Such payment by the savings bank shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries. However, where such an account is opened or subsequently held by more than one (1) person, the death of one (1) of such persons shall not terminate the account and the account shall continue as to the surviving person or persons and the named beneficiary or beneficiaries subject to the provisions of subsection (3).

(3) If the named beneficiary or all of the named beneficiaries survive the death of the person or persons opening such an account and are under sixteen (16) years of age at such time, the savings bank shall pay the money to the credit of the account, less all proper setoffs and charges:

(a) When or after the named beneficiary becomes sixteen (16) years of age, to the named beneficiary or upon his order; or

(b) When more than one (1) beneficiary is named, the savings bank shall pay to each beneficiary so named his proportionate interest in such account as each severally becomes sixteen (16) years of age; or

(c) To the legal guardian of the named beneficiary, wherever appointed and qualified, or where more than one (1) beneficiary is named, the savings bank shall pay such beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed and qualified; or

(d) If no guardian is appointed and qualified, payment may be made in accordance with the provisions of Section 93-20-209 or 93-20-431 in situations to which such sections are applicable.

(4) Where the death of the person or persons opening such an account terminates the account under the provisions of subsections (2) and (3) of this section and where one or more of the named beneficiaries are under sixteen (16) years of age and the remainder of the named beneficiaries are sixteen (16) years of age or over, the savings bank shall pay the money to the credit of the trust, less all proper setoffs and charges, to:

(a) The named beneficiaries sixteen (16) years of age or over at the time of termination of said account pursuant to subsection (2) of this section; and

(b) The named beneficiaries under sixteen (16) years of age at the time of termination of said account pursuant to subsection (3) of this section.

(5) Where such account is opened or subsequently held by more than one (1) person, the savings bank in the absence of any written instructions to the contrary, consented to by the savings bank, shall accept payments made to such account and may pay any money to the credit of such account from time to time to, or pursuant to the order of, either or any of such persons during their life or lives in the same manner as if the account were in the sole name of either of such persons.

(6) When a person or persons opens an account in a savings bank in the form set forth in subsection (1) of this section, and makes a payment or payments to such account, or causes a payment or payments to be made to such account, such person or persons shall be conclusively presumed to intend to vest in the named beneficiary or beneficiaries a present beneficial interest in such payments made, and in the money to the credit of the account from time to time, to the end that, if the named beneficiary or beneficiaries survive the person or persons opening such an account, all the right and title of the person or persons opening such an account in and to the money to the credit of the account at the death of such person or persons, less all proper setoffs and charges, shall at such death, vest solely and indefeasibly in the named beneficiary or beneficiaries subject to the conditions and limitations of subsection (3).

(7) If the named beneficiary predeceases the person opening such an account, the present beneficial interest presumed to be vested in the named beneficiary pursuant to subsection (6) of this section shall terminate at the death of the named beneficiary. In such case, the personal representatives of

the named beneficiary, and all others claiming through or under the named beneficiary, shall have no right in or title to the money to the credit of the account, and the savings bank shall pay such money, less all proper setoffs and charges, to the person opening such an account, or pursuant to his order, in the same manner as if the account were in the sole name of the person opening such an account; provided, however, where such an account names more than one (1) beneficiary, the death of one (1) of the beneficiaries so named shall not terminate the account and the account shall continue as to the surviving beneficiary or beneficiaries subject to the provisions of subsection (3) o f this section.

(8) A savings bank which makes any payment pursuant to subsection (3) of this section, prior to service upon the savings bank of an order of court restraining such payment shall, to the extent of each payment so made, be released from all claims of the person or persons opening such an account, the named beneficiary or beneficiaries, their legal representatives, and all others claiming through or under them.

(9) When an account is opened in a form described in subsection (1) of this section, the right of the named beneficiary or beneficiaries to be vested with sole and indefeasible title to the money to the credit of the account on the death of the person or persons opening such an account shall not be denied, abridged or in anyway affected because such right has not been created by a writing executed in accordance with the law of this state prescribing the requirements to effect a valid testamentary disposition of property.

(1) An account in a savings bank may be opened by any person or persons with directions to make such account payable upon his or their death to the named beneficiary or beneficiaries. When an account is so opened, the savings bank shall pay any money to the person or persons opening such account during his or their lifetime in the same manner as if the account were in the sole name or names of such person or persons.

(2) If the named beneficiary or one (1) of the named beneficiaries survive the death of the person opening such an account and the beneficiary or all of the beneficiaries so named are sixteen (16) years of age or over at the death of such person, the savings bank shall pay the money to the credit of the account, less all proper setoffs and charges, to the named beneficiary or beneficiaries or upon his or their order, as hereinafter provided. Such payment by the savings bank shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries. However, where such an account is opened or subsequently held by more than one (1) person, the death of one (1) of such persons shall not terminate the account and the account shall continue as to the surviving person or persons and the named beneficiary or beneficiaries subject to the provisions of subsection (3).

(3) If the named beneficiary or all of the named beneficiaries survive the death of the person or persons opening such an account and are under sixteen (16) years of age at such time, the savings bank shall pay the money to the credit of the account, less all proper setoffs and charges:

(a) When or after the named beneficiary becomes sixteen (16) years of age, to the named beneficiary or upon his order; or

(b) When more than one (1) beneficiary is named, the savings bank shall pay to each beneficiary so named his proportionate interest in such account as each severally becomes sixteen (16) years of age; or

(c) To the legal guardian of the named beneficiary, wherever appointed and qualified, or where more than one (1) beneficiary is named, the savings bank shall pay such beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed and qualified; or

(d) If no guardian is appointed and qualified, payment may be made in accordance with the provisions of Section 93-20-209 or 93-20-431 in situations to which such sections are applicable.

(4) Where the death of the person or persons opening such an account terminates the account under the provisions of subsections (2) and (3) of this section and where one or more of the named beneficiaries are under sixteen (16) years of age and the remainder of the named beneficiaries are sixteen (16) years of age or over, the savings bank shall pay the money to the credit of the trust, less all proper setoffs and charges, to:

(a) The named beneficiaries sixteen (16) years of age or over at the time of termination of said account pursuant to subsection (2) of this section; and

(b) The named beneficiaries under sixteen (16) years of age at the time of termination of said account pursuant to subsection (3) of this section.

(5) Where such account is opened or subsequently held by more than one (1) person, the savings bank in the absence of any written instructions to the contrary, consented to by the savings bank, shall accept payments made to such account and may pay any money to the credit of such account from time to time to, or pursuant to the order of, either or any of such persons during their life or lives in the same manner as if the account were in the sole name of either of such persons.

(6) When a person or persons opens an account in a savings bank in the form set forth in subsection (1) of this section, and makes a payment or payments to such account, or causes a payment or payments to be made to such account, such person or persons shall be conclusively presumed to intend to vest in the named beneficiary or beneficiaries a present beneficial interest in such payments made, and in the money to the credit of the account from time to time, to the end that, if the named beneficiary or beneficiaries survive the person or persons opening such an account, all the right and title of the person or persons opening such an account in and to the money to the credit of the account at the death of such person or persons, less all proper setoffs and charges, shall at such death, vest solely and indefeasibly in the named beneficiary or beneficiaries subject to the conditions and limitations of subsection (3).

(7) If the named beneficiary predeceases the person opening such an account, the present beneficial interest presumed to be vested in the named beneficiary pursuant to subsection (6) of this section shall terminate at the death of the named beneficiary. In such case, the personal representatives of the named beneficiary, and all others claiming through or under the named beneficiary, shall have no right in or title to the money to the credit of the

account, and the savings bank shall pay such money, less all proper setoffs and charges, to the person opening such an account, or pursuant to his order, in the same manner as if the account were in the sole name of the person opening such an account; provided, however, where such an account names more than one (1) beneficiary, the death of one (1) of the beneficiaries so named shall not terminate the account and the account shall continue as to the surviving beneficiary or beneficiaries subject to the provisions of subsection (3) of this section.

(8) A savings bank which makes any payment pursuant to subsection (3) of this section, prior to service upon the savings bank of an order of court restraining such payment shall, to the extent of each payment so made, be released from all claims of the person or persons opening such an account, the named beneficiary or beneficiaries, their legal representatives, and all others claiming through or under them.

(9) When an account is opened in a form described in subsection (1) of this section, the right of the named beneficiary or beneficiaries to be vested with sole and indefeasible title to the money to the credit of the account on the death of the person or persons opening such an account shall not be denied, abridged or in anyway affected because such right has not been created by a writing executed in accordance with the law of this state prescribing the requirements to effect a valid testamentary disposition of property.

HISTORY: Laws, 1992, ch. 489, § 90; reenacted without change, Laws, 1997, ch. 364, § 92; reenacted without change, Laws, 2001, ch. 457, § 92, eff from and after July 1, 2001; Laws, 2019, ch. 463, § 7, eff from and after January 1, 2020.

Editor's Note.— This section is set out above to correct errors in subsection (3)(d) in the version of the section effective from and after January 1, 2020, as it appeared in the 2019 Volume 18A Cumulative Supplement.

Amendment Notes — The 2019 amendment, effective January 1, 2020, in (3)(d), substituted "If no guardian" for "In the event no guardian" and "Section 93-20-209 or 93-20-431" for "Section 93-13-211 et seq., Mississippi Code of 1972."

ARTICLE 9.

HOLDING COMPANIES.

Sec.
81-14-401. Holding companies.

§ 81-14-401. Holding companies.

(1) Notwithstanding any other provision of law, any stock savings bank may simultaneously with its incorporation or conversion to a stock savings bank provide for its ownership by a holding company. In the case of a conversion, members of the converting savings bank shall have the right to purchase capital stock of the holding company in lieu of capital stock of the converted savings bank in accordance with Section 81-14-107(3)(f).

(2) Notwithstanding any other provision of law, any stock savings bank may reorganize its ownership to provide for ownership by a holding company, upon adoption of a plan of reorganization by a favorable vote of not less than two-thirds (⅔) of the members of the board of directors of the savings bank and approval of such plan of reorganization by the holders of not less than a majority of the issued and outstanding shares of stock of the savings bank. The plan of reorganization shall provide that (a) the resulting ownership shall be vested in a Mississippi corporation; (b) all stockholders of the stock savings bank shall have the right to exchange shares; (c) the exchange of stock shall not be subject to state or federal income taxation; (d) stockholders not wishing to exchange shares shall be entitled to dissenters' rights as provided under Section 79-4-13.01 et seq., Mississippi Code of 1972; and (e) the plan of reorganization is fair and equitable to all stockholders.

(3) Notwithstanding any other provision of law, any mutual savings bank may reorganize its ownership to provide for ownership by a holding company upon adoption of a plan of reorganization by favorable vote of not less than two-thirds (⅔) of the members of the board of directors of the savings bank and approval of the plan of reorganization by a majority of the voting members of the savings bank. The plan of reorganization shall provide: (a) the resulting ownership of one or more subsidiary savings banks shall be evidenced by stock shares; (b) the substantial portion of the assets and all of the insured deposits and part or all of the other liabilities shall be transferred to one or more subsidiary savings banks; (c) the reorganization shall not be subject to state or federal income taxation; and (d) the plan of reorganization is fair and equitable to all members of the savings bank. The commissioner shall promulgate rules regarding the formation of the subsidiary savings banks and the holding company, including the rights of members, levels of investment in the holding company subsidiaries, and stock sales.

(4) A holding company may invest in any investment authorized by its board of directors, except as limited by regulations promulgated by the commissioner pursuant to this chapter.

(5) Any entity which controls a stock savings bank, or acquires control of a stock savings bank, is a holding company. As used in this section, "entity" means an individual, corporation, partnership, joint venture, trust, estate or unincorporated association.

(6) Holding companies shall be under the supervision of the commissioner. The commissioner shall exercise all powers and responsibilities with respect to holding companies which he exercises with respect to savings banks.

HISTORY: Laws, 1992, ch. 489, § 104; reenacted without change, Laws, 1997, ch. 364, § 106; reenacted without change, Laws, 2001, ch. 457, § 106; Laws, 2016, ch. 336, § 2, eff from and after passage (approved Apr. 5, 2016).

Amendment Notes — The 2016 amendment deleted the last two sentences of (6), which read: "However, a bank holding company subject to regulation by the Federal Reserve Board or an entity that controls one or more commercial banks shall not be considered a holding company for purposes of this chapter, even if such bank holding company or entity also owns or controls one or more savings banks, savings institutions

or thrift institutions. Notwithstanding any other provision of law, such bank holding company or entity shall not be subject to supervision or regulation by the department, commissioner or board, and the department, commissioner or board shall not have access to the books and records of such bank holding company or entity"; and made minor stylistic changes.

CHAPTER 18.

MISSISSIPPI S.A.F.E. MORTGAGE ACT

In General. 81-18-1
Nationwide Licensing System. 81-18-61

IN GENERAL

Sec.

81-18-9. Application for license.
81-18-15. Mortgage broker, mortgage lender and mortgage loan originator license renewal procedures; license fees; annual continuing education requirements for mortgage loan originators.
81-18-21. Maintenance and investigation of business records; biennial investigation; examination fee; department authorized to examine persons suspected of conducting business requiring a license; licensee to make records and books available to commissioner and compile reports; commissioner may control access to records of licensee under investigation.
81-18-23. Annual written report by licensee.
81-18-25. Requirements for principal place of business and branch offices.
81-18-27. Prohibited acts; licensed mortgage broker or mortgage lender to broker residential mortgage loan only to licensed mortgage brokers or mortgage lenders or exempt persons.
81-18-28. Maximum lock-in fee; contents of lock-in fee agreement.
81-18-31. Regulations governing advertising of mortgage loans.
81-18-33. Required contents of individual borrower files and individual servicer files.
81-18-35. Journal of mortgage transactions for Mississippi residential loans that licensee originates and/or funds; journal of serviced loans for Mississippi residential loans that licensee owns and/or services.
81-18-37. Suspension or revocation of license; notice to licensee.
81-18-55. Activities prohibited in the course of residential mortgage loan transactions; compliance with borrower's request for information; compliance with certain requirements whether residential mortgage loan is in default or borrower is in bankruptcy.

§ 81-18-1. Short title.

HISTORY: Laws, 2000, ch. 579, § 1; reenacted without change, Laws, 2002, ch. 500, § 1; reenacted without change, Laws, 2004, ch. 364, § 1; reenacted without change, Laws, 2007, ch. 581, § 1; Laws, 2009, ch. 544, § 1; reenacted and amended, Laws, 2010, ch. 462, § 1; reenacted without change, Laws, 2012, ch.

571, § 1; reenacted without change, Laws, 2016, ch. 360, § 1, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 1, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 1, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-3. Definitions.

HISTORY: Laws, 2000, ch. 579, § 2; reenacted and amended, Laws, 2002, ch. 500, § 2; reenacted and amended, Laws, 2004, ch. 364, § 2; reenacted and amended, Laws, 2007, ch. 581, § 2; Laws, 2008, ch. 434, § 1; Laws, 2009, ch. 544, § 2; reenacted and amended, Laws, 2010, ch. 462, § 2; reenacted and amended, Laws, 2012, ch. 571, § 2; Laws, 2013, ch. 499, § 1; reenacted without change, Laws, 2016, ch. 360, § 2, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 2, eff from and after July 1, 2020.

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Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-5. Exemptions.

HISTORY: Laws, 2000, ch. 579, § 3; reenacted and amended, Laws, 2002, ch. 500, § 3; reenacted and amended, Laws, 2004, ch. 364, § 3; reenacted and amended, Laws, 2007, ch. 581, § 3; Laws, 2008, ch. 434, § 2; Laws, 2009, ch. 428, § 2; Laws, 2009, ch. 544, § 3; reenacted and amended, Laws, 2010, ch. 462, § 3; reenacted and amended, Laws, 2012, ch. 571, § 3; reenacted and amended, Laws, 2013, ch. 421, § 1; reenacted without change, Laws, 2016, ch. 360, § 3, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 3, eff from and after July 1, 2020.

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Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-7. Mortgage broker, mortgage lender, or mortgage loan originator licensing requirement; violations.

HISTORY: Laws, 2000, ch. 579, § 4; reenacted without change, Laws, 2002, ch. 500, § 4; reenacted without change, Laws, 2004, ch. 364, § 4; reenacted and amended, Laws, 2007, ch. 581, § 4; Laws, 2009, ch. 544, § 4; reenacted without change, Laws, 2010, ch. 462, § 4; reenacted without change, Laws, 2012, ch. 571, § 4; reenacted without change, Laws, 2016, ch. 360, § 4, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 4, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 4, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-8. Enactment of local ordinances and regulations in compliance with this chapter authorized.

HISTORY: Laws, 2002, ch. 500, § 5; reenacted without change, Laws, 2004, ch. 364, § 5; reenacted without change, Laws, 2007, ch. 581, § 5; reenacted without change, Laws, 2010, ch. 462, § 5; reenacted without change, Laws, 2016, ch. 360, § 5, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 5, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 5, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-9. Application for license.

(1) Applicants for a license shall apply in a form as prescribed by the commissioner. Each such form shall contain content as set forth by rule, regulation, instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

(2) The mortgage broker and mortgage lender application through the Nationwide Mortgage Licensing System and Registry shall include, but is not limited to, the following:

(a) The legal name, residence and business address of the applicant and, if applicable, the legal name, residence and business address of every principal and executive officer, together with the rsum of the applicant and of every principal and executive officer of the applicant. In addition, an independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act and information related to any administrative, civil or criminal findings by any governmental jurisdiction of every principal and executive officer.

(b) The legal name of the mortgage broker or mortgage lender in addition to the name under which the applicant will conduct business in the state, neither of which may be already assigned to a licensed mortgage broker or mortgage lender.

(c) The complete address of the applicant's principal place of business, branch office(s) and any other locations at which the applicant will engage in any business activity covered by this chapter. All locations shall be within the United States of America or a territory of the United States of America, including Puerto Rico and the U.S. Virgin Islands.

(d) A copy of the certificate of incorporation, if a Mississippi corporation.

(e) Documentation satisfactory to the department as to a certificate of existence of authority to transact business lawfully in Mississippi from the Mississippi Secretary of State's office, if a limited liability company, partnership, trust or any other group of persons, however organized. This paragraph does not pertain to applicants organized as an individual or as a sole proprietorship.

(f) If a foreign entity, a copy of a certificate of authority to conduct business in Mississippi and the address of the principal place of business of the foreign entity.

(g) Documentation of a minimum of two (2) years' experience directly related to mortgage activities by a person named as the qualifying individual of the company. The qualifying individual shall be primarily responsible for the operations of the licensed mortgage broker or mortgage lender. Only one (1) qualifying individual shall be named for Mississippi and this person shall be the qualifying individual for only one (1) licensee. Evidence of experience shall include, where applicable:

(i) Copies of business licenses issued by governmental agencies.

(ii) Employment history of the person filing the application for at least two (2) years before the date of the filing of an application, including, but not limited to, job descriptions, length of employment, names, addresses and phone numbers for past employers.

(iii) Any other data and pertinent information as the department may require with respect to the applicant, its directors, principals, trustees, officers, members, contractors or agents. A rsum alone shall not be sufficient proof of employment history.

(3) The mortgage broker and mortgage lender applications shall be filed on the Nationwide Mortgage Licensing System and Registry together with the following:

(a) The license fee specified in Section 81-18-15;

(b) An original or certified copy of a surety bond in favor of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising therefrom or any violation of law;

(c) A set of fingerprints from any local law enforcement agency from the following applicants:

(i) All persons operating as a sole proprietorship that plan to conduct a mortgage-brokering or lending business in the State of Mississippi;

(ii) Partners in a partnership or principal owners of a limited liability company that own at least ten percent (10%) of the voting shares of the company;

(iii) Any shareholders owning ten percent (10%) or more of the outstanding shares of the corporation;

(iv) All executive officers of the applicant;

(v) All loan originators; and

(vi) The named qualifying individual of the company as required in Section 81-18-9(2)(g). The applicant shall name only one (1) individual as the qualifying individual for the State of Mississippi; and

(d) At least one (1) employee shall be licensed as a loan originator at a licensed location.

(4) In connection with an application for licensing as a mortgage broker or lender under this chapter, the required stockholders, owners, directors and executive officers of the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the individual's identity, including:

(a) Fingerprints from any local law enforcement agency for submission to the Federal Bureau of Investigation and any governmental entity authorized to receive that information for a state, national and/or international criminal history background check; and

(b) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) An independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(5) Upon receipt of an application for licensure, the department or designated third party shall conduct an investigation as it deems necessary to determine that the applicant and its officers, directors and principals are of good character and ethical reputation; that the applicant demonstrates reasonable financial responsibility; and that the applicant has reasonable policies and procedures to receive and process customer grievances and inquiries promptly and fairly.

(6) The commissioner shall not license an applicant unless he is satisfied that the applicant will operate its mortgage activities in compliance with the laws, rules and regulations of this state and the United States.

(7) If an applicant satisfies the requirements of this chapter for a mortgage broker or mortgage lender license, the commissioner shall issue the license unless the commissioner finds any of the following:

(a) The applicant has had a mortgage lender, mortgage broker or mortgage servicer license revoked in any governmental jurisdiction, except that a subsequent formal vacation of the revocation shall not be deemed a revocation; or

(b) The applicant or its controlling persons has been convicted of, or pled guilty or nolo contendere to, (i) a felony in a domestic, foreign or military court during the seven-year period preceding the date of application for licensing; or (ii) at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. However, any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

(8) Applicants for a mortgage loan originator license shall apply in a form as prescribed by the commissioner and shall be filed on the Nationwide Mortgage Licensing System and Registry. Each such form shall contain content as set forth by rules, regulations, instructions or procedures of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter. The initial license of a mortgage loan originator shall be accompanied by a fee of Two Hundred Dollars ($200.00), to be paid to the Nationwide Mortgage Licensing System and Registry, and any additional fees as required by the Nationwide Mortgage Licensing System and Registry. The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a later formal vacation of that revocation shall not be deemed a revocation.

(b) The applicant has not been convicted of, or pled guilty or nolo contendere to, (i) a felony in a domestic, foreign or military court during the seven-year period preceding the date of application for licensing; or (ii) at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering. However, any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

(c) The applicant has demonstrated financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly and efficiently within the purposes of this chapter.

(d) The applicant has completed the prelicensing education requirement described in Section 81-18-14(1).

(e) The applicant has passed a written test that meets the test requirement described in Section 81-18-14(7).

(f) The applicant has met the surety bond requirement as provided in Section 81-18-11.

(g) This individual must work for a Mississippi licensed company and work from the location licensed with the department. The licensed location that he or she is assigned to must be within one hundred twenty-five (125) miles of his or her residency. If the licensed loan originator resides and works in Mississippi, then he or she may work from any licensed location of the licensed company within the State of Mississippi. However, an owner of a minimum of ten percent (10%) of a licensed company or the named

qualifying individual on file with the department, who is a licensed loan originator with the department, may work from any licensed location of the licensed company within the State of Mississippi in the capacity of a loan originator as described in this chapter.

(9) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(10) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(a) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive that information for a state, national and/or international criminal history background check; and

(b) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) An independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(11) For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (10)(a) and (b)(ii) of this section, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(12) For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection (10)(b)(i) and (ii) of this section, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

HISTORY: Laws, 2000, ch. 579, § 5; reenacted and amended, Laws, 2002, ch. 500, § 6; reenacted without change, Laws, 2004, ch. 364, § 6; reenacted and amended, Laws, 2007, ch. 581, § 6; Laws, 2008, ch. 434, § 3; Laws, 2009, ch. 544, § 5; reenacted and amended, Laws, 2010, ch. 462, § 6; reenacted and amended, Laws, 2012, ch. 571, § 5; Laws, 2013, ch. 499, § 2; reenacted and amended, Laws, 2016, ch. 360, § 6, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 6, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by substituting "national and/or international" for "national and international" in (4)(a); in

(7)(b) and (8)(b), by substituting "(ii) at any time preceding the date of application if such felony involved an act" for "(ii) a crime at any time preceding the date of application involving an act" and deleting former (iii), which read: "a misdemeanor of fraud, theft, forgery, bribery, embezzlement or making a fraudulent or false statement in any jurisdiction" and making related changes; and making minor stylistic changes in (3).

The 2020 amendment reenacted the section without change.

§ 81-18-11. Mortgage loan originator surety bond requirement; form; amount.

HISTORY: Laws, 2000, ch. 579, § 6; reenacted without change, Laws, 2002, ch. 500, § 7; reenacted without change, Laws, 2004, ch. 364, § 7; reenacted and amended, Laws, 2007, ch. 581, § 7; Laws, 2009, ch. 544, § 6; reenacted without change, Laws, 2010, ch. 462, § 7; reenacted and amended, Laws, 2012, ch. 571, § 6; reenacted without change, Laws, 2016, ch. 360, § 7, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 7, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 7, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2020 amendment reenacted the section without change.

§ 81-18-13. Authorization to collect and maintain records and process fees related to licensees; timing of grant or denial of request for license.

HISTORY: Laws, 2000, ch. 579, § 7; reenacted and amended, Laws, 2002, ch. 500, § 8; reenacted without change, Laws, 2004, ch. 364, § 8; reenacted and amended, Laws, 2007, ch. 581, § 8; Laws, 2009, ch. 544, § 7; reenacted and amended, Laws, 2010, ch. 462, § 8; reenacted and amended, Laws, 2012, ch. 571, § 7; Laws, 2013, ch. 499, § 3; reenacted without change, Laws, 2016, ch. 360, § 8, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 8, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 8, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2020 amendment reenacted the section without change.

§ 81-18-14. Prelicensing education requirements; written test requirement.

HISTORY: Laws, 2009, ch. 544, § 8; reenacted and amended, Laws, 2010, ch. 462, § 9; reenacted without change, Laws, 2012, ch. 571, § 8; reenacted without change, Laws, 2016, ch. 360, § 9, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 9, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 9, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-15. Mortgage broker, mortgage lender and mortgage loan originator license renewal procedures; license fees; annual continuing education requirements for mortgage loan originators.

(1) Each mortgage broker and mortgage lender license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license to operate as a mortgage broker or mortgage lender, the applicant shall pay through the Nationwide Mortgage Licensing System and Registry to the commissioner a license fee of One Thousand Five Hundred Dollars ($1,500.00); however, if the initial mortgage broker or mortgage lender license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. Upon the expiration of the initial license, the licensee shall pay an annual renewal fee of One Thousand Dollars ($1,000.00) on or before December 31 of each year. If the annual renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. If the renewal fee is not paid before the expiration date of the license, then the licensee shall be liable for the initial license fee, which is One Thousand Five Hundred Dollars ($1,500.00), plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day after the expiration of the license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the department. If the application is withdrawn or denied, the application fee along with any other applicable fee are not refundable.

(2) The minimum standards for license renewal for mortgage loan originators shall include the following:

(a) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 81-18-9(4).

(b) The mortgage loan originator has satisfied the annual continuing education requirements described in Section 81-18-15(5).

(c) The mortgage loan originator has paid all required fees for renewal of the license. Annual renewals of this license shall require a fee of One Hundred Dollars ($100.00).

(3) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry. If the renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. However, if the initial loan originator license is issued between November

1 and December 31, the license will expire December 31 of the following licensing year. If the renewal fee is not paid before the expiration date of the license, the mortgage loan originator shall be liable for the initial license fee, which is Two Hundred Dollars ($200.00), in order to renew.

(4) Any licensee making timely and proper application for a license renewal shall be permitted to continue to operate under its existing license until its application is approved or rejected, but shall not be released from or otherwise indemnified for any act covered by this chapter or for any penalty incurred under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, pending final approval or disapproval of the application for the license renewal.

(5) In order to meet the annual continuing education requirements referred to in Section 81-18-15(2)(b), a licensed mortgage loan originator shall complete at least eight (8) hours of education approved in accordance with subsection (2) of this section, which shall include at least:

(a) Three (3) hours of federal law and regulations;

(b) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

(c) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(6) For the purposes of subsection (5) of this section, continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(7) Nothing in this section shall preclude any education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

(8) Continuing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(9) A licensed mortgage loan originator:

(a) Except for Section 81-18-15(3) and subsection (13) of this section, may only receive credit for a continuing education course in the year in which the course is taken; and

(b) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(10) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two (2) hours credit for every one (1) hour taught.

(11) A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subsection (5) of this section for any state shall be accepted as credit towards completion of continuing education requirements in Mississippi.

(12) A licensed mortgage loan originator who later becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

(13) A person meeting the requirements of subsection (2)(a) and (c) of this section may make up any deficiency in continuing education as established by rule or regulation of the commissioner.

HISTORY: Laws, 2000, ch. 579, § 8; reenacted and amended, Laws, 2002, ch. 500, § 9; reenacted and amended, Laws, 2004, ch. 364, § 9; reenacted and amended, Laws, 2007, ch. 581, § 9; Laws, 2008, ch. 434, § 4; Laws, 2009, ch. 544, § 9; reenacted and amended, Laws, 2010, ch. 462, § 10; reenacted without change, Laws, 2012, ch. 571, § 9; Laws, 2013, ch. 499, § 4; reenacted and amended, Laws, 2016, ch. 360, § 10, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 10, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by, in (5), substituting "eight (8) hours" for "twelve (12) hours" in the introductory paragraph, and deleting former (d), which read: "Two (2) hours of education related to the Mississippi S.A.F.E. Mortgage Act" and making a related change, and in (13), by substituting "requirements of subsection (2)(a) and (c) of this section" for "requirements of Section 81-18-15(2)(a) and (c)."

The 2020 amendment reenacted the section without change.

§ 81-18-17. License nontransferable and nonassignable; notification to department of change in address, location, officers, etc.; department approval required for opening of branch office; notification to department of release of loan originator from employment; notification to department of change of qualifying individual of licensee.

HISTORY: Laws, 2000, ch. 579, § 9; reenacted and amended, Laws, 2002, ch. 500, § 10; reenacted and amended, Laws, 2004, ch. 364, § 10; reenacted and amended, Laws, 2007, ch. 581, § 10; Laws, 2008, ch. 434, § 5; Laws, 2009, ch. 544, § 10; reenacted and amended, Laws, 2010, ch. 462, § 11; reenacted and amended, Laws, 2012, ch. 571, § 10; Laws, 2013, ch. 499, § 5; reenacted without change, Laws, 2016, ch. 360, § 11, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 11, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 11, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2020 amendment reenacted the section without Change.

§ 81-18-19. Acquisition of interest in licensee.

HISTORY: Laws, 2000, ch. 579, § 10; reenacted and amended, Laws, 2002, ch. 500, § 11; reenacted and amended, Laws, 2004, ch. 364, § 11; reenacted without change, Laws, 2007, ch. 581, § 11; Laws, 2008, ch. 434, § 6; Laws, 2009, ch. 544, § 11; reenacted without change, Laws, 2010, ch. 462, § 12; reenacted and amended, Laws, 2012, ch. 571, § 11; reenacted without change, Laws, 2016, ch. 360, § 12, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 12, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 12, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-21. Maintenance and investigation of business records; biennial investigation; examination fee; department authorized to examine persons suspected of conducting business requiring a license; licensee to make records and books available to commissioner and compile reports; commissioner may control access to records of licensee under investigation.

(1) Any person required to be licensed under this chapter shall maintain in its offices, or such other location as the department shall permit, the books, accounts and records necessary for the department to determine whether or not the person is complying with the provisions of this chapter and the rules and regulations adopted by the department under this chapter. These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved and may represent historical data for five (5) years from the final disposition of the loan application to which the records relate. The books, accounts and records for individual consumer mortgage files shall be maintained apart and separate from any other personal loan files made by the same consumer. The books, accounts and records shall be kept in a secure location under conditions that will not lead to their damage or destruction. If the licensee wishes to keep the files in a location other than the location listed on the license, then the licensee first must submit a written request on a form designated by the department and gain written approval from the commissioner before storing the files at an off-site secure location.

(2) To assure compliance with the provisions of this chapter, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner shall charge the licensee an examination fee in an amount not less than Three Hundred Dollars ($300.00) nor more than Six Hundred Dollars ($600.00) per day with a maximum examination fee of Two Thousand Four Hundred Dollars ($2,400.00) for each office or location within the State of Mississippi, and an examination fee in an amount

not less than Three Hundred Dollars ($300.00) nor more than Eight Hundred Dollars ($800.00) per day for each office or location outside the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) The department, its designated officers and employees, or its duly authorized representatives, for the purposes of discovering violations of this chapter and for the purpose of determining whether any person or individual reasonably suspected by the commissioner of conducting business that requires a license under this chapter, may investigate those persons and individuals and examine all relevant books, records and papers employed by those persons or individuals in the transaction of business, and may summon witnesses and examine them under oath concerning matters as to the business of those persons, or other such matters as may be relevant to the discovery of violations of this chapter, including, without limitation, the conduct of business without a license as required under this chapter.

(4) Each licensee, individual or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual or person subject to this chapter. The commissioner shall have access to those books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual or person subject to this chapter concerning their business. Failure to produce the books and records within sixty (60) days from the date of request may result in a violation of this chapter, resulting in a civil penalty.

(5) Each licensee, individual or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section, including, but not limited to:

(a) Accounting compilations;

(b) Information lists and data concerning loan transactions in a format prescribed by the commissioner; or

(c) Such other information deemed necessary to carry out the purposes of this section.

(6) In making any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except under a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this

chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(7) The commissioner shall report regularly violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in Section 81-18-63.

(8) Examinations and investigations conducted under this chapter and information obtained by the department, except as provided in subsection (7) of this section, in the course of its duties under this chapter are confidential.

(9) In the absence of malice, fraud or bad faith a person is not subject to civil liability arising from the filing of a complaint with the department, furnishing other information required by this chapter, information required by the department under the authority granted in this chapter, or information voluntarily given to the department related to allegations that a licensee or prospective licensee has violated this chapter. Failure of a person to respond to a formal complaint made with the department by a consumer may result in a violation of this chapter, resulting in a civil penalty.

(10) In order to carry out the purposes of this section, the commissioner may:

(a) Accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(b) Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner; or

(c) Rely upon attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations; or

(d) Enter into agreements or relationships with other government officials or regulatory associations, including, but not limited to, joint enforcement action, by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section.

(11) The authority of this section shall remain in effect, whether such a licensee, individual or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without that authority.

(12) No licensee, individual or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, falsify, abandon or secret any books, records, computer records or other information.

HISTORY: Laws, 2000, ch. 579, § 11; reenacted and amended, Laws, 2002, ch. 500, § 12; reenacted and amended, Laws, 2004, ch. 364, § 12; reenacted and amended, Laws, 2007, ch. 581, § 12; Laws, 2009, ch. 544, § 12; reenacted without

change, Laws, 2010, ch. 462, § 13; reenacted without change, Laws, 2012, ch. 571, § 12; Laws, 2013, ch. 499, § 6; reenacted and amended, Laws, 2016, ch. 360, § 13, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 13, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by adding the third sentence in (1) and (4), the second sentence in (9), and (10)(c) and (d), and by substituting "destroy, falsify, abandon or secret any books" for "destroy or secrete any books" in (12).

The 2020 amendment reenacted and amended the section by rewriting the second sentence of (1), which read: "These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved and may represent historical data for three (3) years preceding the date of the last license application date forward."

§ 81-18-23. Annual written report by licensee.

(1) Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require. Failure to file accurate, timely and complete reports on the Nationwide Mortgage Licensing System and Registry may result in a violation of this chapter, resulting in a civil penalty.

(2) The department, in its discretion, may relieve any company from the payment of any penalty, in whole or in part, for good cause.

(3) If a company fails to pay a penalty from which it has not been relieved, the department may maintain an action at law to recover the penalty.

(4) Within fifteen (15) days of the occurrence of any of the following events, a company shall file with the Nationwide Mortgage Licensing System and Registry the applicable change in the disclosure questions and shall submit the information through the Nationwide Mortgage Licensing System and Registry or file a written report with the commissioner describing the event and its expected impact on the activities of the company in this state:

(a) The filing for bankruptcy or reorganization by the company;

(b) The institution of revocation or suspension proceedings against the company by any state or governmental authority;

(c) Any felony indictment of the company or any of its directors, executive officers, qualifying individual or loan originators;

(d) Any felony conviction of the company or any of its directors, executive officers, qualifying individual or loan originators;

(e) Expiration, termination or default, technical or otherwise, of any existing line of credit or warehouse credit agreement;

(f) Suspension or termination of the licensee's status as an approved seller or seller/servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association;

(g) Exercise of recourse rights by investors or subsequent assignees of mortgage loans if such loans, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets; or

(h) Existence of negative balances, exceeding One Hundred Dollars ($100.00) in any operation account at any time or the return of checks, exceeding One Hundred Dollars ($100.00) for insufficient funds.

(5) Licensees who are involved in civil actions shall notify the Nationwide Mortgage Licensing System and Registry within sixty (60) days of the occurrence. An explanation and supporting documentation for each civil action concerning the company shall be submitted through the Nationwide Mortgage Licensing System and Registry. The department may require additional information as necessary.

HISTORY: Laws, 2000, ch. 579, § 12; reenacted without change, Laws, 2002, ch. 500, § 13; reenacted and amended, Laws, 2004, ch. 364, § 13; reenacted and amended, Laws, 2007, ch. 581, § 13; Laws, 2008, ch. 434, § 7; Laws, 2009, ch. 544, § 13; reenacted and amended, Laws, 2010, ch. 462, § 14; reenacted without change, Laws, 2012, ch. 571, § 13; Laws, 2013, ch. 499, § 7; reenacted and amended, Laws, 2016, ch. 360, § 14, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 14, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by adding the second sentence of (1), and in (4), by rewriting (e), which read: "Any misdemeanor conviction, in which fraud is an essential element, of any of the company's directors, executive officers, qualifying individual or loan originators" and adding (f) through (h).

The 2020 amendment reenacted the section without change.

§ 81-18-25. Requirements for principal place of business and branch offices.

(1) Each principal place of business and branch office in the state shall meet all of the following requirements:

(a) Be in compliance with local zoning ordinances and have posted any licenses required by local government agencies. It is the responsibility of the licensee to meet local zoning ordinances and obtain the required occupational licenses; however, zoning cannot be residential. If there is no zoning in the area, then the person shall submit to the department a letter from the city or county stating that there is no zoning.

(b) Consist of at least one (1) secure enclosed room or secure building of stationary construction in which negotiations of mortgage loan transactions may be conducted in privacy. Stationary construction does not include the use of portable buildings. If there is no zoning in the requested location and the property is used for residential purposes, then the person shall utilize an enclosed room with a dedicated outside door.

(c) Display a permanent sign outside the place of business readily visible to the general public, unless the display of sign violates local zoning ordinances or restrictive covenants. The sign must contain the name of the licensee and shall also contain the Nationwide Mortgage Licensing System and Registry Unique Identifier issued to that particular licensed location.

(2) If one (1) of the following is correct, then that location shall be licensed as a mortgage broker or mortgage lender under this chapter and not as a branch:

(a) It is a separate entity operating as an independent business or mortgage operation which is not under the direct control, management supervision and responsibility of the licensee;

(b) The licensee is not the lessee or owner of the branch and the branch is not under the direct and daily ownership, control, management and supervision of the licensee;

(c) All assets and liabilities of the branch are not assets and liabilities of the licensee, and all income and expenses of the branch are income and expenses of the licensee and properly accounted for in the financial records and tax returns of the licensee; or

(d) All practices, policies and procedures, including, but not limited to, those relating to employment and operations, are not originated and established by the licensee or registered company and are not applied consistently to the principal place of business and all branches.

Nothing in this subsection (2) shall affect or change, or be construed as affecting or changing, the existing statutory law and common law on agency, principal and agent, independent contractors, and parent and subsidiary companies.

HISTORY: Laws, 2000, ch. 579, § 13; reenacted and amended, Laws, 2002, ch. 500, § 14; reenacted and amended, Laws, 2004, ch. 364, § 14; reenacted and amended, Laws, 2007, ch. 581, § 14; Laws, 2009, ch. 544, § 14; reenacted without change, Laws, 2010, ch. 462, § 15; reenacted and amended, Laws, 2012, ch. 571, § 14; reenacted and amended, Laws, 2016, ch. 360, § 15, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 15, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by deleting "the words 'Mississippi Licensed Mortgage Company' or, if the initial license is obtained after July 1, 2007, the words 'Licensed by the Mississippi Department of Banking and Consumer Finance.' The signage" from the end of the former second sentence and beginning of the former third sentence to produce the present second sentence.

The 2020 amendment reenacted the section without change.

§ 81-18-27. Prohibited acts; licensed mortgage broker or mortgage lender to broker residential mortgage loan only to licensed mortgage brokers or mortgage lenders or exempt persons.

(1) No person required to be licensed under this chapter shall:

(a) Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(b) Misrepresent to or conceal from an applicant for a mortgage loan or mortgagor, material facts, terms or conditions of a transaction to which the licensee is a party.

(c) Fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan.

(d) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

(e) Improperly refuse to issue a satisfaction of a mortgage loan.

(f) Fail to account for or deliver to any person any personal property obtained in connection with a mortgage loan, such as money, funds, deposits, checks, drafts, mortgages or other documents or things of value that have come into the possession of the licensee and that are not the property of the licensee, or that the licensee is not by law or at equity entitled to retain.

(g) Engage in any transaction, practice, or course of business that is not in good faith, or that operates a fraud upon any person in connection with the making of or purchase or sale of any mortgage loan, including the use of correction fluid on any document associated with the mortgage loan.

(h) Engage in any fraudulent residential mortgage underwriting practices, which include, but are not limited to, making in any manner, any false or deceptive statement or representation including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising.

(i) Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(j) Induce, require, or otherwise permit the applicant for a mortgage loan or mortgagor to sign a security deed, note, or other pertinent financial disclosure documents with any blank spaces to be filled in after it has been signed, except blank spaces relating to recording or other incidental information not available at the time of signing.

(k) Make, directly or indirectly, any residential mortgage loan with the intent to foreclose on the borrower's property. For purposes of this paragraph, there is a presumption that a person has made a residential mortgage loan with the intent to foreclose on the borrower's property if any of the following circumstances are proven:

(i) Lack of substantial benefit to the borrower;

(ii) The probability that full payment of the loan cannot be made by the borrower;

(iii) That the person has made a significant proportion of loans foreclosed under similar circumstances;

(iv) That the person has provided an extension of credit or collected a mortgage debt by extortion;

(v) That the person does business under a trade name that misrepresents or tends to misrepresent that the person is a bank, trust company, savings bank, savings and loan association, credit union, or insurance company.

(*l*) Charge or collect any direct payment, compensation or advance fee from a borrower unless and until a loan is actually found, obtained and closed for that borrower, and in no event shall that direct payment, compensation or advance fee exceed seven and ninety-five one-hundredths percent (7.95%) of the original principal amount of the loan, and any such direct payments, compensation or advance fees shall be included in all

annual percentage rate (APR) calculations if required under Regulation Z of the federal Truth in Lending Act (TILA). A direct payment, compensation or advance fee as defined in this section shall not include:

(i) Any direct payment, compensation or advance fee collected by a licensed mortgage broker or mortgage lender to be paid to a nonrelated third party;

(ii) Any indirect payment to a licensed mortgage broker or mortgage lender by a lender if those fees are not required to be disclosed under the Real Estate Settlement Procedures Act (RESPA);

(iii) Any indirect payment or compensation by a lender to a licensee required to be disclosed by the licensee under RESPA, provided that the payment or compensation is disclosed to the borrower by the licensee on a good faith estimate of costs, is included in the APR if required under Regulation Z of TILA, and is made pursuant to a written agreement between the licensee and the borrower as may be required by Section 81-18-33;

(iv) A fee not to exceed one percent (1%) of the principal amount of a loan for construction, provided that a binding commitment for the loan has been obtained for the prospective borrower; or

(v) An advance fee, known as a lock-in fee, collected by a licensee to be paid to a lender to lock in an interest rate and/or a certain number of points on a mortgage loan from the lender as provided in Section 81-18-28.

(m) Pay to any person not licensed under the provisions of this chapter any commission, bonus or fee in connection with arranging for or originating a mortgage loan for a borrower, except that a licensed loan originator may be paid a bonus, commission, or fee by his or her licensed employer.

(n) Refuse to provide the loan payoff within three (3) business days of an oral or written request from a borrower or third party. Proof of authorization of the borrower shall be submitted for a third-party request. The payoff statement must be an understandable and accurate statement of the total amount that is required to pay off the mortgage loan as of a specified date. No borrower shall be charged a fee for being informed or receiving a payoff statement or for being provided with a release upon full payment, provided that the licensed mortgage lender may charge a reasonable fee for providing a payoff statement after five (5) or more requests in any calendar year.

(o) Knowingly withhold, extract, remove, mutilate, destroy or conceal any books, records, computer records or other information which are required by law to be disclosed.

(p) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the commissioner or another governmental agency.

(q) Fail to comply with this chapter or rules or regulations promulgated under this chapter, or fail to comply with any other state or federal law,

including the rules and regulations under that law, applicable to any business authorized or conducted under this chapter.

(r) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter.

(s) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.

(t) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting.

(u) Fail to make disclosures as required by this chapter and any other applicable state or federal law including regulations under that law.

(v) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.

(w) Sign a consumer's name to a mortgage loan application or mortgage loan documents on behalf of a consumer.

(x) Knowingly falsify income or asset information on a mortgage loan application or mortgage loan documents.

(y) Discourage a consumer in a mortgage loan transaction from seeking or obtaining independent legal counsel or legal advice.

(2) A licensed mortgage broker or mortgage lender shall only broker a residential mortgage loan to a mortgage broker or mortgage lender licensed under this chapter or to a person exempt from licensure under the provisions of this chapter.

(3) No nonbanking entity may use any sign or handwritten or printed paper indicating that it is a bank, savings bank, trust company or place of banking. No entity may use the word "bank," "savings bank," "banking," "banker" or "trust company," or the equivalent or plural of any of these words, in connection with any business other than that of banking. This subsection does not prohibit a person from acting in a trust capacity.

(4) No person shall use the name or logo of any banking entity in connection with the sale, offering for sale, or advertising of any financial product or service without the express written consent of the banking entity.

(5) No unlicensed Mississippi location of a Mississippi licensed mortgage broker or mortgage lender may advertise mortgage services if the unlicensed location is more than fifty (50) miles from a licensed Mississippi location.

HISTORY: Laws, 2000, ch. 579, § 14; reenacted and amended, Laws, 2002, ch. 500, § 15; reenacted and amended, Laws, 2004, ch. 364, § 15; Laws, 2006, ch. 451, § 1; reenacted and amended, Laws, 2007, ch. 581, § 15; Laws, 2009, ch. 544, § 15; reenacted without change, Laws, 2010, ch. 462, § 16; reenacted without

change, Laws, 2012, ch. 571, § 15; reenacted and amended, Laws, 2016, ch. 360, § 16, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 16, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by, in (1), adding the last two sentences of (n) and adding (w) through (y).

The 2020 amendment reenacted the section without change.

§ 81-18-28. Maximum lock-in fee; contents of lock-in fee agreement.

(1) A licensed mortgage broker or mortgage lender may enter into lock-in agreements and collect a lock-in fee from a borrower on the lender's behalf. The lock-in fee shall not exceed the following:

(a) No fee may be collected to lock in for sixty (60) days or less;

(b) One percent (1%) of the principal amount of the loan to lock in for more than sixty (60) days, but not to exceed one hundred eighty (180) days;

(c) One and one-half percent (1-1/2%) of the principal amount of the loan to lock in for more than one hundred eighty (180) days, but not to exceed two hundred seventy (270) days; or

(d) Two percent (2%) of the principal amount of the loan to lock in for more than two hundred seventy (270) days.

(2) Before the collection of a lock-in fee, the applicant must be provided a copy of the lock-in fee agreement. This agreement shall contain at least the following:

(a) Identification of the property that is associated with the loan;

(b) The principal amount and term of the loan;

(c) The initial interest rate and/or points, whether the interest rate is fixed or variable, and if variable, the index and margin, or the method by which an interest rate change for the mortgage loan will be calculated;

(d) The amount of the lock-in fee, whether the fee is refundable or nonrefundable, the time by which the lock-in fee must be paid to the lender, and if the fee is refundable, the terms and conditions necessary to obtain the refund; and

(e) The length of the lock-in period that the agreement covers.

HISTORY: Laws, 2006, ch. 451, § 2; reenacted and amended, Laws, 2007, ch. 581, § 16; reenacted without change, Laws, 2010, ch. 462, § 17; reenacted without change, Laws, 2012, ch. 571, § 16; reenacted and amended, Laws, 2016, ch. 360, § 17, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 17, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by substituting "that is associated with" for "that is being purchased with" in (2)(a).

The 2020 amendment reenacted the section without change.

§ 81-18-29. Promulgation of rules and regulations.

HISTORY: Laws, 2000, ch. 579, § 15; reenacted without change, Laws, 2002, ch. 500, § 16; reenacted without change, Laws, 2004, ch. 364, § 16; reenacted and amended, Laws, 2007, ch. 581, § 17; reenacted without change, Laws, 2010, ch. 462, § 18; reenacted without change, Laws, 2012, ch. 571, § 17; reenacted without change, Laws, 2016, ch. 360, § 18, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 18, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 18, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-31. Regulations governing advertising of mortgage loans.

The department shall promulgate regulations governing the advertising of mortgage loans, including, but not limited to, the following requirements:

(a) That all advertisements for loans regulated under this chapter may not be false, misleading or deceptive. No person whose activities are regulated under this chapter may advertise in any manner so as to indicate or imply that its interest rates or charges for loans are "recommended," "approved," "set" or "established" by the State of Mississippi;

(b) That all licensees shall maintain a copy of all advertisements citing interest rates or payment amounts primarily disseminated in this state and shall attach to each advertisement documentation that provides corroboration of the availability of the interest rate and terms of loans and names the specific media sources by which the advertisements were distributed;

(c) That all published advertisements disseminated primarily in this state by a license shall contain the name and an office address of the licensee, which shall be the same as the name and address of the licensee on record with the department;

(d) That an advertisement containing either a quoted interest rate or monthly payment amount must include:

(i) The interest rate of the mortgage, a statement as to whether the rate is fixed or adjustable, and the adjustment index and frequency of adjustments;

(ii) The term in years or months to fully repay the mortgage;

(iii) The APR as computed under federal guidelines; and

(e) That the unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation or order of the commissioner.

HISTORY: Laws, 2000, ch. 579, § 16; reenacted and amended, Laws, 2002, ch.

500, § 17; reenacted and amended, Laws, 2004, ch. 364, § 17; reenacted and amended, Laws, 2007, ch. 581, § 18; Laws, 2009, ch. 544, § 16; reenacted without change, Laws, 2010, ch. 462, § 19; reenacted without change, Laws, 2012, ch. 571, § 18; reenacted and amended, Laws, 2016, ch. 360, § 19, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 19, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by deleting former (e), which read: "That no licensee shall advertise its services in Mississippi in any media disseminated primarily in this state, whether print or electronic, without the words 'Mississippi Licensed Mortgage Company' or, if the initial license is obtained after July 1, 2007, the words 'Licensed by the Mississippi Department of Banking and Consumer Finance'" and redesignating former (f) as (e).

The 2020 amendment reenacted the section without change.

§ 81-18-33. Required contents of individual borrower files and individual servicer files.

(1) The individual borrower files of a licensee shall contain at least the following:

(a) A mortgage origination agreement provided to the borrower containing at least the following statements:

(i) "As required by Mississippi Law, (licensed company name) has secured a bond issued by (name of insurance company), a surety company authorized to do business in this state. A certified copy of this bond is filed with the Mississippi Commissioner of Banking and Consumer Finance."

(ii) "As a borrower you are protected under the Mississippi S.A.F.E. Mortgage Act."

(iii) Complaints against a licensee may be made by contacting the:
Mississippi Department of Banking and
Consumer Finance
P.O. Drawer 12129
Jackson, MS 39236-2129;

(b) A copy of the original loan application signed and dated by the licensee;

(c) A copy of the signed closing statement as required by HUD or documentation of denial or cancellation of the loan application;

(d) A copy of the loan estimate of costs provided to the borrower;

(e) A copy of the appraisal or statement of value if procured as a part of the loan application process;

(f) A copy of a loan lock-in agreement, if any, provided by the licensee;

(g) A copy of the disclosures required under Regulation Z of the federal Truth In Lending Act and other disclosures as required under federal regulations and evidence that those disclosures have been properly and timely made to the borrower;

(h) A copy of the final signed Uniform Residential Loan Application. However, any mortgage licensee who holds a license under the provisions of the Small Loan Regulatory Law, Section 75-67-101 et seq., and the Small

Loan Privilege Tax Law, Section 75-67-201 et seq., may substitute an application that is otherwise compliant with federal and state law; and

(i) Additional information as required per the rules and regulations adopted by the commissioner according to Section 81-18-29.

(2) The individual servicer files of a licensee shall contain at least the following:

(a) A copy of the original initial loan application signed and dated by the licensee;

(b) A copy of the final loan application signed and dated by the licensee;

(c) A copy of the signed closing statement as required by HUD or documentation of denial or cancellation of the loan application;

(d) Modification agreements;

(e) Collection/default letters and related documentation;

(f) Addendums, riders, assigned note, if applicable;

(g) Complete pay history from the time the loan was transferred or boarded;

(h) Complete comment/note history from the time the loan was transferred or boarded; and

(i) Additional information as required per the rules and regulations of this chapter as deemed by the commissioner according to Section 81-18-29.

HISTORY: Laws, 2000, ch. 579, § 17; reenacted without change, Laws, 2002, ch. 500, § 18; reenacted and amended, Laws, 2004, ch. 364, § 18; reenacted and amended, Laws, 2007, ch. 581, § 19; Laws, 2009, ch. 544, § 17; reenacted and amended, Laws, 2010, ch. 462, § 20; reenacted without change, Laws, 2012, ch. 571, § 19; reenacted and amended, Laws, 2016, ch. 360, § 20, eff from and after July 1, 2016; reenacted and amended, Laws, 2020, ch. 310, § 20, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by, in (1), substituting "P.O. Box 12129" for "P.O. Box 23729" and "39236-2129" for "39225-3729" in (a)(iii) and adding (i), and by adding (2).

The 2020 amendment reenacted and amended the section by, in (1), substituting "loan estimate" for "good faith estimate" in (d), deleting "and" at the end of (g), and adding "and" at the end of (h) and making related changes.

§ 81-18-35. Journal of mortgage transactions for Mississippi residential loans that licensee originates and/or funds; journal of serviced loans for Mississippi residential loans that licensee owns and/or services.

(1) Each licensee shall maintain a journal of mortgage transactions at the principal place of business as stated on its license for all Mississippi residential loans that the licensee originated and/or funded. This journal shall be separate from non-Mississippi loans. The journal shall include at least the following information:

(a) Name of applicant and co-applicant, if applicable;

(b) Date of application;

(c) Disposition of loan application, indicating date of loan closing, loan denial, withdrawal and name of lender if applicable;

(d) Property address;
(e) Loan amount;
(f) Terms;
(g) Loan program; and
(h) Loan originator.

(2) Each licensee shall maintain a journal of serviced loans at the principal place of business as stated on its license, for all Mississippi residential loans that the licensee owns and/or services. This journal shall be kept separate from non-Mississippi loans. The journal shall include at least the following information:

(a) The number of mortgage loans the licensee is servicing;
(b) The type and characteristics of the loans;
(c) The number of serviced loans in default, along with a breakdown of thirty-, sixty- and ninety-day delinquencies;
(d) Information on loss mitigation activities, including details on work-out arrangements undertaken and date loss mitigation application was submitted/approved/denied;
(e) Information on foreclosures commenced and completed;
(f) Name of applicant and co-applicant, if applicable; and
(g) Date the loan was boarded/deboarded, if applicable.

HISTORY: Laws, 2000, ch. 579, § 18; reenacted without change, Laws, 2002, ch. 500, § 19; reenacted without change, Laws, 2004, ch. 364, § 19; reenacted and amended, Laws, 2007, ch. 581, § 20; reenacted without change, Laws, 2010, ch. 462, § 21; reenacted and amended, Laws, 2012, ch. 571, § 20; Laws, 2013, ch. 499, § 8; reenacted and amended, Laws, 2016, ch. 360, § 21, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 21, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by, in (1), adding (d) through (h) and making related changes, and by, in (2), adding "and date loss mitigation application was submitted/approved/denied" at the end of (d) and adding (f) and (g) and making related changes.

The 2020 amendment reenacted the section without change.

§ 81-18-36. Funds paid to licensee for payment of taxes or insurance premiums must be deposited in separate account from funds belonging to licensee; account to be designated "escrow account"; accounting for funds.

HISTORY: Laws, 2002, ch. 500, § 20; reenacted without change, Laws, 2004, ch. 364, § 20; reenacted and amended, Laws, 2007, ch. 581, § 21; reenacted without change, Laws, 2010, ch. 462, § 22; reenacted without change, Laws, 2012, ch. 571, § 21; reenacted without change, Laws, 2016, ch. 360, § 22, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 22, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 22, effective from and after July 1, 2020. Since the language of the section as it

appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2020 amendment reenacted the section without change.

§ 81-18-37. Suspension or revocation of license; notice to licensee.

(1) The department may suspend or revoke any license for any reason that would have been grounds for refusal to issue an original license or for:

(a) A violation of any provision of this chapter or any rule or regulation adopted under this chapter;

(b) Failure of the licensee to pay, within thirty (30) days after it becomes final and nonappealable, a judgment recovered in any court within this state by a claimant or creditor in an action arising out of the licensee's business in this state as a mortgage broker or mortgage lender.

(2) Notice of the department's intention to enter an order denying an application for a license under this chapter or of an order suspending or revoking a license under this chapter shall be given to the applicant, licensee in writing, sent by registered or certified mail addressed to the principal place of business of the applicant or licensee. Within thirty (30) days of the date of the notice of intention to enter an order of denial, suspension or revocation under this chapter, the applicant or licensee may request in writing a hearing to contest the order. If a hearing is not requested in writing within thirty (30) days of the date of the notice of intention, the department shall enter a final order regarding the denial, suspension or revocation. Any final order of the department denying, suspending or revoking a license shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy of the final order shall be forwarded promptly by registered or certified mail addressed to the principal place of business of the applicant or licensee.

HISTORY: Laws, 2000, ch. 579, § 19; reenacted without change, Laws, 2002, ch. 500, § 21; reenacted without change, Laws, 2004, ch. 364, § 21; reenacted and amended, Laws, 2007, ch. 581, § 22; Laws, 2009, ch. 544, § 18; reenacted without change, Laws, 2010, ch. 462, § 23; reenacted without change, Laws, 2012, ch. 571, § 22; reenacted and amended, Laws, 2016, ch. 360, § 23, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 23, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by substituting "the applicant or licensee" for "the applicant, licensee" in the second sentence of (2).

The 2020 amendment reenacted the section without change.

§ 81-18-39. Definition of "person"; violations of law; cease and desist orders; failure to comply with order; civil penalty.

HISTORY: Laws, 2000, ch. 579, § 20; reenacted and amended, Laws, 2002, ch. 500, § 22; reenacted without change, Laws, 2004, ch. 364, § 22; reenacted without change, Laws, 2007, ch. 581, § 23; repealed by Laws, 2009, ch. 544, § 24; reenacted without change, Laws, 2010, ch. 462, § 24; reenacted and amended, Laws, 2012, ch. 571, § 23; reenacted without change, Laws, 2016, ch. 360, § 24, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 24, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 24, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-40. Commissioner authorized to issue subpoenas; penalties for noncompliance with subpoena.

HISTORY: Laws, 2008, ch. 434, § 9; reenacted without change, Laws, 2010, ch. 462, § 25; reenacted without change, Laws, 2012, ch. 571, § 24; reenacted without change, Laws, 2016, ch. 360, § 25, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 25, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 25, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-41. Continuation of loan servicing under existing servicing contracts by suspended licensee.

HISTORY: Laws, 2000, ch. 579, § 21; reenacted without change, Laws, 2002, ch. 500, § 23; reenacted without change, Laws, 2004, ch. 364, § 23; reenacted and amended, Laws, 2007, ch. 581, § 24; reenacted without change, Laws, 2010, ch. 462, § 26; reenacted without change, Laws, 2012, ch. 571, § 25; reenacted without change, Laws, 2016, ch. 360, § 26, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 26, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 26, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-43. Penalties for violations; report of violations; hearing on amount of penalty; judicial review.

HISTORY: Laws, 2000, ch. 579, § 22; reenacted without change, Laws, 2002, ch. 500, § 24; reenacted and amended, Laws, 2004, ch. 364, § 24; reenacted and amended, Laws, 2007, ch. 581, § 25; Laws, 2009, ch. 544, § 19; reenacted without change, Laws, 2010, ch. 462, § 27; reenacted without change, Laws, 2012, ch. 571, § 26; reenacted without change, Laws, 2016, ch. 360, § 27, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 27, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 27, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-45. Commissioner authorized to hire additional full-time employees.

HISTORY: Laws, 2000, ch. 579, § 23; reenacted without change, Laws, 2002, ch. 500, § 25; reenacted without change, Laws, 2004, ch. 364, § 25; reenacted without change, Laws, 2007, ch. 581, § 26; reenacted without change, Laws, 2010, ch. 462; reenacted without change, Laws, 2016, ch. 360, § 28, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 28, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 28, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-47. Immunity from liability.

HISTORY: Laws, 2000, ch. 579, § 24; reenacted without change, Laws, 2002, ch. 500, § 26; reenacted without change, Laws, 2004, ch. 364, § 26; reenacted without change, Laws, 2007, ch. 581, § 27; reenacted without change, Laws, 2010, ch. 462; reenacted without change, Laws, 2016, ch. 360, § 29, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 29, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 29, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-49. Grandfather provisions.

HISTORY: Laws, 2000, ch. 579, § 25; reenacted without change, Laws, 2002, ch. 500, § 27; reenacted without change, Laws, 2004, ch. 364, § 27; reenacted without change, Laws, 2007, ch. 581, § 28; reenacted without change, Laws, 2010, ch. 462; reenacted without change, Laws, 2016, ch. 360, § 30, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 30, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 30, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-51. Repealed.

Repealed by Laws, 2020, ch. 310, § 35, eff from and after July 1, 2020.

§ 81-18-51. [Laws, 2000, ch. 579, § 27; Laws, 2002, ch. 500, § 28; Laws, 2004, ch. 364, § 28; Laws, 2007, ch. 581, § 29; Laws, 2009, ch. 544, § 20; reenacted and amended, Laws, 2010, ch. 462, § 31; Laws, 2012, ch. 571, § 27; reenacted and amended, Laws, 2016, ch. 360, § 31, eff from and after July 1, 2016.]

Editor's Notes — Former § 81-18-51 was the repealer for the Mississippi S.A.F.E. Mortgage Act, §§ 81-18-1 through 81-18-63, effective July 1, 2020.

§ 81-18-53. Applicability of chapter.

HISTORY: Laws, 2009, ch. 544, § 23; reenacted without change, Laws, 2010, ch. 462, § 28; Laws, 2011, ch. 386, § 1; reenacted and amended, Laws, 2012, ch. 571, § 28; reenacted without change, Laws, 2016, ch. 360, § 32, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 31, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 31, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2020 amendment reenacted the section without change.

§ 81-18-55. Activities prohibited in the course of residential mortgage loan transactions; compliance with borrower's request for information; compliance with certain requirements whether residential mortgage loan is in default or borrower is in bankruptcy.

(1) In addition to the activities prohibited under other provisions of this chapter, it shall be unlawful in the course of any residential mortgage loan transaction:

(a) For any person to fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by Sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA) and regulations adopted thereunder;

(b) For a mortgage lender to fail to provide written notice to a borrower upon taking action to place hazard, homeowners, or flood insurance on the mortgaged property or to place such insurance when the mortgage lender knows or has reason to know that the insurance is in effect;

(c) For a mortgage lender to place hazard, homeowners or flood insurance on a mortgaged property for an amount that exceeds either the value of the insurable improvements or the last-known coverage amount of insurance;

(d) For a mortgage lender to fail to provide to the borrower a refund or earned premiums paid by a borrower or charged to the borrower for hazard, homeowners, or flood insurance placed by a mortgage lender if the borrower provides reasonable proof that the borrower has obtained coverage such that the forced placement is no longer necessary and the property is insured. If the borrower provides reasonable proof within twelve (12) months of the placement that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage lender shall refund the entire premium;

(e) For a mortgage lender to refuse to reinstate a delinquent loan upon a tender of payment made timely under the contract which is sufficient in amount, based upon the last written statement received by the borrower, to pay all past-due amounts, outstanding or overdue charges, and restore the loan to a nondelinquent status, but his reinstatement shall be available to a borrower no more than twice in any twenty-four-month period;

(f) For a mortgage lender to fail to mail, at least forty-five (45) days before the power-of-sale foreclosure auction is conducted, a notice addressed to the borrower at the borrower's last-known address with the following information:

(i) An itemization of all past-due amounts causing the loan to be in default;

(ii) An itemization of any other charges that must be paid in order to bring the loan current;

(iii) A statement that the borrower may have options available other than foreclosure and that the borrower may discuss the options with the mortgage lender, or a counselor approved by the U.S. Department of Housing and Urban Development (HUD);

(iv) The address, telephone number, and other contact information for the mortgage lender or the agent for the mortgage lender who is authorized to attempt to work with the borrower to avoid foreclosure;

(v) The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in Mississippi to avoid foreclosure; and

(vi) The address, telephone number, and other contact information for the consumer complaint section of the Mississippi Department of Banking and Consumer Finance;

(g) For a mortgage lender to fail to make all payments from any escrow account held for the borrower for insurance, taxes and other charges with respect to the property in a timely manner so as to ensure that no late penalties are assessed or other negative consequences result regardless of whether the loan is delinquent, unless there are not sufficient funds in the account to cover the payments and the mortgage lender has a reasonable basis to believe that recovery of the funds will not be possible.

(2) The mortgage lender shall make reasonable attempts to comply with a borrower's request for information about the home loan account and to respond to any dispute initiated by the borrower about the loan account, as provided in this section. The mortgage lender shall maintain, until the home loan is paid in full, otherwise satisfied, or sold, written or electronic records of each written request for information regarding a dispute or error involving the borrower's account. Specifically, the mortgage lender is required to do all of the following:

(a) Provide a written statement to the borrower within ten (10) business days of receipt of a written request from the borrower that includes or otherwise enables the mortgage lender to identify the name and account of the borrower and includes a statement that the account is or may be in error or otherwise provides sufficient detail to the mortgage lender regarding information sought by the borrower. The borrower is entitled to one such statement in any six-month period free of charge, and additional statements shall be provided if the borrower pays the mortgage lender a reasonable charge for preparing and furnishing the statement not to exceed Twenty-five Dollars ($25.00). The statement shall include the following information if requested:

(i) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(ii) The current balance due on the loan, including the principal due, the amount of funds (if any) held in a suspense account, the amount of the escrow balance (if any) known to the mortgage lender, and whether there are any escrow deficiencies or shortages known to the mortgage lender;

(iii) The identity, address and other relevant information about the current holder, owner or assignee of the loan; and

(iv) The telephone number and mailing address of a mortgage lender representative with the information and authority to answer questions and resolve disputes;

(b) Provide the following information and/or documents within twenty-five (25) business days of receipt of a written request from the borrower that includes or otherwise enables the mortgage lender to identify the name and account of the borrower and includes a statement that the account is or may be in error or otherwise provides sufficient detail to the mortgage lender regarding information sought by the borrower:

(i) A copy of the original note, or if unavailable, an affidavit of the lost note;

(ii) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history

identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the home loan including escrow account activity and suspense account activity, if any. The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the mortgage lender has not serviced the home loan for the entire two-year time period the mortgage lender shall provide the information going back to the date on which the mortgage lender began servicing the home loan. For purposes of this subsection, the date of the request for the information shall be presumed to be no later than thirty (30) days from the date of the receipt of the request. If the mortgage lender claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the mortgage lender has serviced the loan, the mortgage lender shall provide an account history beginning with the month that the mortgage lender claims any outstanding sums are owed on the loan up to the date of the request for the information. The borrower is entitled to one (1) such statement in any six-month period free of charge. Additional statements shall be provided if the borrower pays the mortgage lender a reasonable charge for preparing and furnishing the statement not to exceed Fifty Dollars ($50.00); and

(c) Promptly correct errors relating to the allocation of payments, the statement of account, or the payoff balance identified in any notice from the borrower provided in accordance with paragraph (b) of this subsection, or discovered through the due diligence of the mortgage lender or other means.

(3) A mortgage lender must comply as to every residential mortgage loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

(a) Any fee that is incurred by a mortgage lender shall be both:

(i) Assessed within forty-five (45) days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within forty-five (45) days of the date they are charged by either the attorney or trustee to the mortgage lender; and

(ii) Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last-known address within thirty (30) days after assessing the fee, provided the mortgage lender shall not be required to take any action in violation of the provisions of the federal bankruptcy code. The mortgage lender shall not be required to send such a statement for a fee that: results from a service that is affirmatively requested by the borrower, is paid for by the borrower at the time the service is provided, and is not charged to the borrower's loan account.

(b) All amounts received by a mortgage lender on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one (1) business day of

the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a mortgage lender uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within ten (10) business days by mail at the borrower's last-known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.

(c) The notification required by paragraph (b) of this subsection is not necessary if the mortgage lender complies with the terms of any agreement or plan made with the borrower and has applied and credited payments received in the manner required, and the mortgage lender is applying and crediting payments to the borrower's account in compliance with all applicable state and federal laws, including bankruptcy laws, and if at least one (1) of the following occurs:

(i) The borrower has entered into written loss mitigation, loan modification, or forebearance agreement with the mortgage lender that itemizes all amounts due and specifies how payments will be applied and credited;

(ii) The borrower has elected to participate in an alternative payment plan, such as a biweekly payment plan, that specifies as part of a written agreement how payments will be applied and credited; or

(iii) The borrower is making payments pursuant to a bankruptcy plan.

(d) Failure to charge the fee or provide the information within the allowable time and in the manner required under subsection (3)(a)(i) of this section constitutes a waiver of such fee.

(e) All fees charged by a mortgage lender must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.

(f) A mortgage lender shall charge a sum or prepayment penalty for the prepayment of any residential mortgage loan only as authorized by Section 75-17-31.

(g) A mortgage lender shall charge a late payment charge only as authorized by Section 75-17-27.

(h) The costs of collection and reasonable attorney fees may not be in excess of twenty-five percent (25%) of the unpaid debt after default, when the debt has been referred to an attorney for collection.

(i) Charges or premiums for credit life insurance actually written on the life of the borrower or endorser in an amount not to exceed the total sum payable under the residential mortgage loan, including all interest, fees, costs and charges.

HISTORY: Laws, 2012, ch. 571, § 31; reenacted and amended, Laws, 2016, ch. 360, § 33, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 32, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by substituting "before the power-of-sale foreclosure auction is conducted" for "before foreclosure is initiated" in (1)(f).

The 2020 amendment reenacted the section without change.

NATIONWIDE LICENSING SYSTEM

Sec.

81-18-61. Mortgage loan originators required to be licensed and registered through Nationwide Mortgage Licensing System and Registry; background checks; fees; process to challenge information in system; independent contractor loan processor or underwriter to be licensed as mortgage loan originator.

§ 81-18-61. Mortgage loan originators required to be licensed and registered through Nationwide Mortgage Licensing System and Registry; background checks; fees; process to challenge information in system; independent contractor loan processor or underwriter to be licensed as mortgage loan originator.

(1) In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish, by rule, regulation or order, requirements as necessary, including, but not limited to:

(a) Background checks for:

(i) Criminal history through fingerprint or other databases;

(ii) Civil or administrative records;

(iii) Credit history; or

(iv) Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry;

(b) The payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(c) The setting or resetting as necessary of renewal or reporting dates; and

(d) Requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

(2) The commissioner shall establish a process by which mortgage loan originators may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

(3) In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(4) A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under Section 81-18-7(4). Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

HISTORY: Laws, 2007, ch. 581, § 30; Laws, 2008, ch. 434, § 8; Laws, 2009, ch. 544, § 21; reenacted without change, Laws, 2010, ch. 462, § 29; reenacted without change, Laws, 2012, ch. 571, § 29; reenacted and amended, Laws, 2016, ch. 360, § 34, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 33, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment reenacted and amended the section by deleting "and registered" following "loan originators to be licensed" in the first sentence of (1).

The 2020 amendment reenacted the section without change.

§ 81-18-63. Confidentiality of information or material provided to Nationwide Mortgage Licensing System and Registry.

HISTORY: Laws, 2009, ch. 544, § 22; reenacted without change, Laws, 2010, ch. 462, § 30; reenacted without change, Laws, 2012, ch. 571, § 30; reenacted without change, Laws, 2016, ch. 360, § 35, eff from and after July 1, 2016; reenacted without change, Laws, 2020, ch. 310, § 34, eff from and after July 1, 2020.

Editor's Notes — This section was reenacted without change by Laws of 2020, ch. 310, § 34, effective from and after July 1, 2020. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2020 amendment reenacted the section without change.

CHAPTER 22.

MISSISSIPPI DEBT MANAGEMENT SERVICES ACT

Sec.

81-22-3. Definitions [Repealed effective July 1, 2022].
81-22-31. Repeal of Sections 81-22-1 through 81-22-28.

§ 81-22-1. Short title [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 1; reenacted and amended, Laws, 2006, ch. 398, § 1; reenacted without change, Laws, 2010, ch. 396, § 1; reenacted without change, Laws, 2013, ch. 348, § 1; reenacted without change, Laws, 2015, ch. 325, § 1; reenacted without change, Laws, 2016, ch. 345, § 1, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 1, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 1, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

RESEARCH REFERENCES

ALR.

Validity, Construction, and Application of State Debt Adjusting Statutes. 90 A.L.R.6th 1.

§ 81-22-3. Definitions [Repealed effective July 1, 2022].

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(a) "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(b) "Debt management service" means:

(i) The receiving of money from a consumer for the purpose of distributing one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(ii) Arranging or assisting a consumer to arrange for the distribution of one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(iii) Exercising control, directly or indirectly, or arranging for the exercise of control over funds of the consumer for the purpose of distributing payments to or among one or more creditors of the consumer;

(iv) Acting or offering to act as an intermediary between a consumer and one or more creditors of the consumer for the purpose of adjusting, compromising, negotiating, settling, discharging or otherwise deferring, reducing or altering the terms of payment of the consumer's obligation; or

(v) Improving or offering to improve a consumer's credit record, history or rating.

(c) "Debt management service provider" means a person that provides or offers to provide to a consumer in this state any debt management services, in return for a fee or other consideration. "Debt management service provider" does not include:

(i) Those situations involving debt adjusting incurred incidentally in the lawful practice of law in this state;

(ii) Those situations involving credit report error correction services and situations covered under paragraph (b)(v) of this section when performed in the lawful practice of law in this state;

(iii) Title insurers who adjust debts out of escrow funds only incidentally in the regular course of their principal business;

(iv) Judicial officers or others acting under court orders;

(v) Those situations involving debt adjusting incurred incidentally in connection with the lawful practice as a certified public accountant;

(vi) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments;

(vii) Employers who adjust debts for their employees;

(viii) Any person who, at the request of a debtor, makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts solely in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting the debts;

(ix) Any institution that is regulated, supervised or licensed by the department or any out-of-state institution that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;

(x) Licensed attorneys engaged in the lawful practice of law; or

(xi) For-profit debt management service providers who do not receive or hold consumer funds, who do not receive a fee until a settlement is approved by the consumer and who are regulated by the Federal Trade Commission.

(d) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

(e) "Fair share contribution" means voluntary contributions paid to the licensee by the creditor for collecting funds from clients pursuant to debt management services.

(f) "Licensee" means a person or entity who is required to be licensed as a debt management service provider.

(g) "Person" means an individual or an organization.

(h) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(i) "Third-party payment processor" means any entity that holds, or has access to, or can effectuate possession of, by any means, the monies of a licensee's debtors, or distributes, or is in the chain or distribution of such monies, to the creditors of such debtors, pursuant to an agreement or contract with the licensee. This term shall not include entities that solely provide the electronic routing and settlement of financial transactions and their sponsoring banks.

HISTORY: Laws, 2003, ch. 465, § 2; reenacted and amended, Laws, 2006, ch. 398, § 2; Laws, 2008, ch. 332, § 1; reenacted without change, Laws, 2010, ch. 396, § 2; reenacted without change, Laws, 2013, ch. 348, § 2; reenacted without change, Laws, 2015, ch. 325, § 2; reenacted without change, Laws, 2016, ch. 345, § 2, eff from and after July 1, 2016; Laws, 2018, ch. 345, § 1, eff from and after July 1, 2018; reenacted without change, Laws, 2019, ch. 323, § 2, eff from and after July 1, 2019.

Amendment Notes — The 2016 amendment reenacted the section without change.
The 2018 amendment added (c)(xi), and made related changes.
The 2019 amendment reenacted the section without change.

§ 81-22-5. Licensure and annual relicensure [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 3; reenacted and amended, Laws, 2006, ch. 398, § 3; reenacted without change, Laws, 2010, ch. 396, § 3; reenacted without change, Laws, 2013, ch. 348, § 3; reenacted without change, Laws, 2015, ch. 325, § 3; reenacted without change, Laws, 2016, ch. 345, § 3, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 3, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 3, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.
Amendment Notes — The 2016 amendment reenacted the section without change.
The 2019 amendment reenacted the section without change.

§ 81-22-7. Bond required [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 4; reenacted and amended, Laws, 2006, ch. 398, § 4; reenacted without change, Laws, 2010, ch. 396, § 4; reenacted without change, Laws, 2013, ch. 348, § 4; reenacted without change, Laws, 2015, ch. 325, § 4; reenacted without change, Laws, 2016, ch. 345, § 4, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 4, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 4, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.
Amendment Notes — The 2016 amendment reenacted the section without change.
The 2019 amendment reenacted the section without change.

§ 81-22-9. Handling of consumer funds [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 5; reenacted and amended, Laws, 2006, ch. 398, § 5; reenacted without change, Laws, 2010, ch. 396, § 5; reenacted without change, Laws, 2013, ch. 348, § 5; reenacted without change, Laws, 2015, ch. 325, § 5; reenacted without change, Laws, 2016, ch. 345, § 5, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 5, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 5, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-11. Requirement for written agreement [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 6; reenacted and amended, Laws, 2006, ch. 398, § 6; reenacted without change, Laws, 2010, ch. 396, § 6; reenacted without change, Laws, 2013, ch. 348, § 6; reenacted without change, Laws, 2015, ch. 325, § 6; reenacted without change, Laws, 2016, ch. 345, § 6, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 6, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 6, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-13. Fees charged to the consumer [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 7; reenacted and amended, Laws, 2006, ch. 398, § 7; reenacted and amended, Laws, 2010, ch. 396, § 7; reenacted without change, Laws, 2013, ch. 348, § 7; reenacted without change, Laws, 2015, ch. 325, § 7; reenacted without change, Laws, 2016, ch. 345, § 7, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 7, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 7, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-15. Reports and records [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 8; reenacted and amended, Laws, 2006, ch. 398, § 8; reenacted without change, Laws, 2010, ch. 396, § 8; reenacted without change, Laws, 2013, ch. 348, § 8; reenacted without change, Laws, 2015, ch. 325, § 8; reenacted without change, Laws, 2016, ch. 345, § 8, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 8, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 8, effective from and after July 1, 2019. Since the language of the section as it

appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-17. Powers and functions of commissioner [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 9; reenacted and amended, Laws, 2006, ch. 398, § 9; reenacted without change, Laws, 2010, ch. 396, § 9; reenacted without change, Laws, 2013, ch. 348, § 9; reenacted without change, Laws, 2015, ch. 325, § 9; reenacted without change, Laws, 2016, ch. 345, § 9, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 9, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 9, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-19. Prohibited acts [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 10; reenacted without change, Laws, 2006, ch. 398, § 10; reenacted without change, Laws, 2010, ch. 396, § 10; reenacted without change, Laws, 2013, ch. 348, § 10; reenacted without change, Laws, 2015, ch. 325, § 10; reenacted without change, Laws, 2016, ch. 345, § 10, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 10, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 10, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-21. Advertising [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 11; reenacted without change, Laws, 2006, ch. 398, § 11; reenacted without change, Laws, 2010, ch. 396, § 11; reenacted without change, Laws, 2013, ch. 348, § 11; reenacted without change, Laws, 2015, ch. 325, § 11; reenacted without change, Laws, 2016, ch. 345, § 11, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 11, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 11, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-23. Effects of violations on rights of parties [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 12; reenacted and amended, Laws, 2006, ch. 398, § 12; reenacted without change, Laws, 2010, ch. 396, § 12; reenacted without change, Laws, 2013, ch. 348, § 12; reenacted without change, Laws, 2015, ch. 325, § 12; reenacted without change, Laws, 2016, ch. 345, § 12, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 12, effective from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 12, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-25. Suspension or revocation of registration [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 13; reenacted without change, Laws, 2006, ch. 398, § 13; reenacted without change, Laws, 2010, ch. 396, § 13; reenacted without change, Laws, 2013, ch. 348, § 13; reenacted without change, Laws, 2015, ch. 325, § 13; reenacted without change, Laws, 2016, ch. 345, § 13, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 13, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 13, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-27. Commissioner authorized to hire additional full-time employees [Repealed effective July 1, 2022].

HISTORY: Laws, 2003, ch. 465, § 14; reenacted without change, Laws, 2006, ch. 398, § 14; reenacted without change, Laws, 2010, ch. 396, § 14; reenacted without change, Laws, 2013, ch. 348, § 14; reenacted without change, Laws, 2015, ch. 325, § 14; reenacted without change, Laws, 2016, ch. 345, § 14, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 14, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 9, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

§ 81-22-28. Written notice of intent by licensee to use third-party payment processor; content of notice; surety bond required; examination of third-party payment processor records by department; termination of agreement or contract with third-party payment processor. [Repealed effective July 1, 2022].

HISTORY: Laws, 2006, ch. 398, § 15; reenacted without change, Laws, 2010, ch. 396, § 15; reenacted without change, Laws, 2013, ch. 348, § 15; reenacted without change, Laws, 2015, ch. 325, § 15; reenacted without change, Laws, 2016, ch. 345, § 15, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 323, § 15, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 323, § 15, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2016 amendment reenacted the section without change.

The 2019 amendment reenacted the section without change.

§ 81-22-31. Repeal of Sections 81-22-1 through 81-22-28.

Sections 81-22-1 through 81-22-28, Mississippi Code of 1972, shall stand repealed on July 1, 2022.

HISTORY: Laws, 2006, ch. 398, § 16; reenacted and amended, Laws, 2010, ch. 396, § 16; Laws, 2013, ch. 348, § 16; Laws, 2015, ch. 325, § 16; Laws, 2016, ch. 345, § 16, eff from and after July 1, 2016; Laws, 2019, ch. 323, § 16, eff from and after July 1, 2019.

Amendment Notes — The 2016 amendment extended the date of the repealer for §§ 81-22-1 through 81-22-28 by substituting "July 1, 2019" for "July 1, 2016."

The 2019 amendment extended the date of the repealer for §§ 81-22-1 through 81-22-28 by substituting "July 1, 2022" for "July 1, 2019."